BILL NO. S-81-06-33

SPECIAL ORDINANCE NO. S-154-81 ~~81-06-33~~

AN ORDINANCE AUTHORIZING THE
CITY OF FORT WAYNE, ALLEN COUNTY
TO ISSUE ITS
ECONOMIC DEVELOPMENT FIRST
REVENUE BONDS, SERIES 1981
MARK DOUGLAS, INC. PROJECT
AND APPROVING OTHER ACTIONS IN
RESPECT THERETO.

WHEREAS, the Fort Wayne Economic Development Commission has rendered its Project Report for the MARK DOUGLAS, INC. PROJECT, regarding the financing of proposed economic development facilities consisting of the acquisition, construction and equipping of a site, building, parking lot and related facilities for a funeral home at 4017 Maplecrest Road, Fort Wayne, Allen County, Indiana, and the Allen County Plan Commission has commented favorably thereon; and

WHEREAS, the Fort Wayne Economic Development Commission conducted a public hearing on June 18, 1981, and also adopted a Resolution on said date, which Resolution has been transmitted hereto, finding that the financing of certain economic development facilities as described in the project complies with the purposes and provisions of I.C. §18-6-4.5, and that such financing will be of benefit to the health and welfare of the City of Fort Wayne and its citizens; and

WHEREAS, the Fort Wayne Economic Development Commission has heretofore approved and recommended the adoption of this form of Ordinance by this Common Council and has approved the forms of and has transmitted for approval by the Common Council the financing documents including: the Mortgage and Indenture of Trust, the Loan Agreement, the Series 1981 Revenue Bond, and a Lease Agreement by and between Mark Douglas, Inc. as Lessor and D. O. McComb & Sons, Inc., as Lessee.

NOW THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA, THAT:

SECTION 1. It is hereby found that the financing of the

the economic development facilities referred to in the Loan Agreement approved by the Fort Wayne Economic Development Commission and presented to this Common Council, the issuance and sale of revenue bonds, the loan of the proceeds of the revenue bonds to the applicant for the acquisition and construction of such facilities and the equipping thereof, the payment of the revenue bonds by the applicant under the Loan Agreement, and the securing of said bonds by such facilities under the financing documents complies with the purposes and provisions of I.C. §18-6-4.5, and will be of benefit to the health and welfare of the City of Fort Wayne, Indiana and its citizens.

SECTION 2. The final forms of the financing documents approved by the Fort Wayne Economic Development Commission are hereby approved and all such documents (herein collectively referred to as the "Financing Agreement" referred to in I.C. §18-6-4.5), shall be incorporated herein by reference and shall be inserted in the minutes of the Common Council and kept on file by the Clerk.

SECTION 3. The City of Fort Wayne shall issue its Economic Development First Revenue Bonds, Series 1981 (MARK DOUBLAS, INC. PROJECT) in the total principal amount of $600,000.00, commencing on , 1981, said Bonds mature fifteen years from the date of the sale of the Bonds and bears interest at the rate of sixty percent (60%) of the prime interest rate of Anthony Wayne Bank of Fort Wayne, Indiana (calculated on the basis of a 360-day year consisting of twelve 30-day months), for the purpose of procuring funds to pay the costs of acquisition and construction of the economic development facilities as more particularly set out in the financing documents incorporated herein by reference which bonds will be payable as to principal, premium, if any,

and interest from the note payments made by the applicant under the Loan Agreement and Note or as otherwise provided in the financing documents. The bonds shall never constitute a general obligation of, an indebtedness of, or a charge against the general credit of the City of Fort Wayne, Indiana.

SECTION 4. The Mayor, Clerk and/or Controller are authorized and directed to sell such bonds to the purchasers thereof at a rate of interest per annum on the bonds not less than that provided therein, and at a price not less than the principal amount thereof.

SECTION 5. The Mayor and Clerk are authorized and directed to execute the documents constituting the financing agreement herein on behalf of the City and any other document which may be necessary or desirable to consummate the transaction, including the bonds authorized herein. The signatures of the Mayor and Clerk on the bonds may be facsimile signatures. The Clerk is authorized to arrange for delivery of such bonds to the Trustee named in the Loan Agreement, payment for which will be made to said Trustee and delivered by the Trustee to the purchasers thereof.

SECTION 6. The provisions of this Ordinance and the financing documents securing the bonds shall constitute a contract binding between the City of Fort Wayne, Indiana and the holder of the Economic Development First Mortgage Revenue Bonds, Series 1981 (MARK DOUGLAS, INC. PROJECT), and after the issuance of said bonds, this Ordinance shall not be repealed or amended in any respect which would adversely affect the rights of such holders so long as any of said bonds or the interest thereon remains unpaid.

SECTION 7. This Ordinance shall be in full force and effect from and after its passage and signing by the Mayor.

Vivian G. Schmidt
COUNCILMAN

APPROVED AS TO FORM AND
LEGALITY.

David B. Keller, Attorney for the
Economic Development Commission

Dated this 23rd day of June, 1981.

Read the first ~~time~~ in full and on motion by V. Schmidt seconded by Stier, and duly adopted, read the second time by title and referred to the Committee Finance (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, ~~City-County Building~~, Fort Wayne, Indiana, on _____, the _____ day of _____, 19____, at _____ o'clock M.,E.S.T.

DATE: 6-23-81

Charles W. Westerman
CHARLES W. WESTERMAN
CITY CLERK

Read the third time ~~in~~ full and on motion by V. Schmidt, seconded by Stier, and duly adopted, placed on its passage. PASSED (~~LOST~~) by the following vote:

	AYES	NAYS	ABSTAINED	ABSENT	TO-WIT:
TOTAL VOTES	9				
BURNS	X				
EISBART	X				
GiaQUINTA	X				
NUCKOLS	X				
SCHMIDT, D.	X				
SCHMIDT, V.	X				
SCHOMBURG	X				
STIER	X				
TALARICO	X				

DATE: 7-14-81

Charles W. Westerman
CHARLES W. WESTERMAN - CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as ~~(ZONING MAP)~~ ~~(GENERAL)~~ ~~(ANNEXATION)~~ (SPECIAL) ~~(APPROPRIATION)~~ ORDINANCE (RESOLUTION) No. S-154-81 on the 14th day of July, 19 81.

ATTEST: (SEAL)

Charles W. Westerman
CHARLES W. WESTERMAN - CITY CLERK

John Nuckols
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 15th day of July, 19 81, at the hour of 11:30 o'clock A. M.,E.S.T.

Charles W. Westerman
CHARLES W. WESTERMAN - CITY CLERK

Approved and signed by me this 20th day of July 19 81, at the hour of 11 o'clock A M.,E.S.T.

Winfield C. Moses Jr.
WINFIELD C. MOSES, JR.
MAYOR

BILL NO. S-81-06-33

REPORT OF THE COMMITTEE ON FINANCE

WE, YOUR COMMITTEE ON Finance TO WHOM WAS REFERRED AN ORDINANCE AUTHORIZING THE CITY OF FORT WAYNE, ALLEN COUNTY TO ISSUE ITS ECONOMIC DEVELOPMENT FIRST REVENUE BONDS, SERIES 1981 MARK DOUGLAS, INC. PROJECT AND APPROVING OTHER ACTIONS IN RESPECT THERETO

HAVE HAD SAID ORDINANCE UNDER CONSIDERATION AND BEG LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID ORDINANCE DO PASS.

VIVIAN G. SCHMIDT, CHAIRMAN	Vivian G. Schmidt
JAMES S. STIER, VICE CHAIRMAN	James S. Stier
MARK E. GiaQUINTA	Mark E. GiaQuinta
PAUL M. BURNS	Paul M. Burns
ROY J. SCHOMBURG	Roy J. Schomburg

7-14-81 CONCURRED IN

DATE _____ CHARLES W. WESTERMAN, CITY CLERK

Admn. Appr. _____

DIGEST SHEET

TITLE OF ORDINANCE: Special Ordinance A-81-06-33

DEPARTMENT REQUESTING ORDINANCE: Economic Development Commission

SYNOPSIS OF ORDINANCE: An Ordinance authorizing the City of Fort Wayne, Indiana to issue its "Economic Development Revenue Bonds, Series 1981 (MARK DOUGLAS, INC. PROJECT)" and approval of final financing documents. An Inducement Resolution for this Project was previously adopted by City Council on April 29, 1981 (R-33-81).

EFFECT OF PASSAGE: Permanent Financing of Facilities.

EFFECT OF NON-PASSAGE: None of the above.

MONEY INVOLVED (DIRECT COSTS, EXPENDITURES, SAVINGS): None

ASSIGNED TO COMMITTEE (PRESIDENT): _____

FORT WAYNE ECONOMIC DEVELOPMENT COMMISSION
FORT WAYNE, INDIANA

June 18, 1981

Common Council of the
City of Fort Wayne
City-County Building
One Main Street
Fort Wayne, Indiana 46802

RE: City of Fort Wayne, Indiana
Economic Development Revenue Bonds
(MARK DOUGLAS, INC. PROJECT)
Series 1981

Gentlemen and Mrs. Schmidt:

Pursuant to the provisions of I.C. §18-6-4.5-17, there are enclosed copies of the following:

1. Resolution containing a report on the proposed financing of economic development facilities, which report has been submitted to the President of the Allen County Plan Commission having jurisdiction where the facilities are to be located, together with excerpts from the minutes of the March 26, 1981 meeting of the Fort Wayne Economic Development Commission evidencing adoption of such resolution.

2. Resolution approving the proposed financing and approving the form and terms of Economic Development Revenue Bonds, the Loan Agreement, the Lease Agreement and the Mortgage and Indenture of Trust, together with excerpts of the minutes of the June 18, 1981 meeting of the Fort Wayne Economic Development Commission evidencing a public hearing on the proposed financing of such economic development facilities and adoption of such resolution.

3. Each of the financing documents referred to in the preceding paragraph.

The Fort Wayne Economic Development Commission requests that you consider these enclosures and the proposed financing contemplated thereby, and take such additional action as is necessary to complete such financing.

FORT WAYNE ECONOMIC DEVELOPMENT
COMMISSION

BY: _____
Timothy Borne
Its Secretary

FINAL RESOLUTION
APPROVING PROPOSED FINANCING OF
ECONOMIC DEVELOPMENT COMMISSION FOR
MARK DOUGLAS, INC. PROJECT

WHEREAS, the Fort Wayne Economic Development Commission (the "Commission"), has heretofore made a report making certain findings with respect to the proposed financing by the City of Fort Wayne, Indiana (the "City") for the MARK DOUGLAS, INC. (the "Company"), of the cost of economic development facilities located in an unincorporated area of Allen County, Indiana; and

WHEREAS, the Executor Director of the Allen County Plan Commission has furnished a report to the Commission; and

WHEREAS, the Commission has held a public hearing on the proposed financing and desires to make a record of this Resolution that the proposed financing complies with the purposes and provisions of I.C. §18-6-4.5, and to approve the form and terms of such financing.

NOW, THEREFORE, BE IT RESOLVED by the Fort Wayne Economic Development Commission, as follows:

1. The proposed financing of the cost of economic development facilities by the City of Fort Wayne, Indiana, for the Company is hereby found to be of benefit to the welfare of the City and to comply with the purposes and provisions of I.C. §18-6-4.5.

2. The economic development facilities will not have an adverse competitive effect on similar facilities already constructed or operating in or near the City.

3. The Commission approves the proposed financing and the proposed form and terms of:

(a) City of Fort Wayne Economic Development Revenue Bonds, Series A (Mark Douglas, Inc. Project) in the aggregate amount of $600,000.00 (the "Bonds"). The Bonds mature fifteen years from the date of the sale of the Bonds and bears interest at the rate of sixty percent (60%) of the prime interest rate of Anthony Wayne Bank of Fort Wayne, Indiana (calculated on the basis of a 360-day year consisting of twelve 30-day months). The Bonds are proposed to be issued by the City for the purpose of lending the proceeds thereof to the Company to pay for such economic development facilities; and

(b) Loan Agreement whereby the City lends the bond proceeds to the Company to pay the costs of acquisition and construction of such facilities and the repayment of which is upon terms sufficient to retire, and is the source of payment of the bonds and interest thereon, including a Lease Agreement from the Company to evidence its obligations thereunder; and

(c) Mortgage and Indenture of Trust from the City to Anthony Wayne Bank of Fort Wayne, Indiana, as Trustee, securing said Bonds; said Indenture of Trust may contain such insubstantial changes from the form now before this meeting as the Common Council and the attorney for the Commission may approve.

(d) Lease Agreement between the Company as Lessor and Lessee whereby the Lessor will lease the facilities from the Lessor for a rental amount equal to the payments of pincicpal and intereste due under the Bonds.

4. The Secretary of the Commission is hereby authorized and directed to transmit this Resolution and all other instruments and information pertaining to the proposed financing to the Common Council of the City.

Passed and Approved this 18th day of June, 1981.

Sidney R. Sheray, President

ATTEST:

Timothy Borne, Secretary

RESOLUTION OF
FORT WAYNE ECONOMIC DEVELOPMENT COMMISSION
ON APPLICATION OF

WHEREAS, the City of Fort Wayne, Indiana, (the "Issuer") is authorized by Indiana Code 18-6-4.5 (the "Act") to issue revenue bonds for the financing of economic development facilities, the funds from said financing to be used for the acquisition, construction and equipping of said facilities, and said facilities to be either sold or leased to the user or developer; and

WHEREAS, Mark Douglas, Inc. , (the "Applicant"), has advised the Fort Wayne Economic Development Commission (the "Commission") and the Issuer that it proposes that the Issuer acquire and equip an economic development facility and sell and/or lease the same to the Applicant or loan proceeds of an economic development financing to the Applicant for the same, said economic development facility to be used to construct building, parking lot and related facilities for a funeral home at 4017 Maplecrest Road, Fort Wayne, Indiana.

(the "Project"); and

WHEREAS, the diversification of industry and increase in job opportunities to be achieved by the acquisition of the Project will be of public benefit to the health, safety and general welfare of the Issuer and its citizens; and

WHEREAS, it would appear that the financing of the Project would be of public benefit to the health, safety and general welfare of the Issuer and its citizens or the citizens of Allen County, Indiana; and

WHEREAS, the acquisition and construction of the facility will not have an adverse competitive effect on any similar facility already constructed or operating in Allen County:

NOW, THEREFORE, BE IT RESOLVED by the Commission as follows:

1. The Commission hereby finds and determines that the promotion of diversification of economic development and job opportunities in Fort Wayne, Indiana, is desirable to preserve the health, safety and general welfare of the citizens of the Issuer, and that it is in the public interest that the Commission and the Issuer take such action as they lawfully may to encourage economic development, diversification of industry and promotion of job opportunities in and near the Issuer.

2. The Commission hereby finds and determines that the issuance and sale of economic development revenue bonds in an amount of approximately $ 600,000.00 of the Issuer under the Act for the acquisition, construction and equipping of the Project and the sale or leasing of the Project to the Applicant or the loan of the proceeds of the revenue bonds to the Applicant, will serve the public purposes referred to above, in accordance with the Act.

3. In order to induce the Applicant to proceed with the acquisition, construction and equipping of the Project, the Commission hereby finds and determines that (i) it will take or cause to be taken such actions pursuant to the Act as may be required to implement the aforesaid financing, or as it may deem appropriate in pursuance thereof; provided that all of the foregoing shall be mutually acceptable to the Issuer and the Applicant; and (ii) it will adopt such resolutions and authorize the execution and delivery of such instruments and the taking of such action as may be necessary and advisable for the authorization, issuance and sale of said economic development revenue bonds.

4. All costs of the Project which may be financed under the Act will be permitted to be included as part of the bond issue to finance the Project, and the Issuer will sell or lease the same to the Applicant or loan the proceeds from the sale of the bonds to the Applicant for the same purposes.

Adopted this 26th day of March , 1981.

FORT WAYNE ECONOMIC DEVELOPMENT COMMISSION

Jack Gren
(Jack Gren)

(Sidney R. Sheray)

Charles M. Henry
(Charles M. Henry)

REPORT OF THE FORT WAYNE ECONOMIC DEVELOPMENT
COMMISSION CONCERNING THE PROPOSED FINANCING
OF ECONOMIC DEVELOPMENT FACILITIES FOR

_____

Having been furnished certain data by the above applicant, and having had discussions with representatives of said applicant, the Fort Wayne Economic Development Commission now submits the following report pursuant to Indiana Code 18-6-4.5-16.

Description of Proposed Facilities

To construct a building, parking lot and related facilities for a funeral home at 4017 Maplecrest Road, Fort Wayne, Indiana.

Estimate of Public Services Required

All public services, including water and sewage, now exist. No public facilities will be made necessary on account of the proposed facilities.

Total Project Cost

The total project cost for the purchase, construction and equipping of the facilities is estimated to be $600,000.00, including costs of issuance of the economic development revenue bonds.

Number of Jobs and Estimated Payroll

It is anticipated there will be approximately ~~12~~ 14 new jobs created by this project with an estimated payroll increase of approximately $116,520.00 annually.

Adverse Competitive Effect

The construction of the facilities will not have an adverse competitive effect on any similar facilities already constructed or operating in or near Fort Wayne, Indiana.

Dated this 26th day of March, 1981.

(Wayne P. Simerman)

(Jack Grein)

(Louis R. Dinwiddie)

(Sidney R. Sheray)

(Charles M. Henry)

CITY OF FORT WAYNE, INDIANA

AND

MARK DOUGLAS, INC.

MORTGAGE AND INDENTURE OF TRUST

Dated as of_____, 1981

MORTGAGE AND INDENTURE
OF TRUST

THIS MORTGAGE AND INDENTURE OF TRUST ("Indenture") made and entered into as of_____, 1981, among the City of Fort Wayne, a municipal corporation organized and existing under the laws of the State of Indiana ("Issuer"), Mark Douglas, Inc. ("Developer"), and Anthony Wayne Bank, a banking association organized and existing under the laws of the State of Indiana, with its principal office located at Fort Wayne, Indiana, as Trustee ("Trustee"),

WITNESSETH:

WHEREAS, the Indiana Code, Title 18, Article 6, Chapter 4.5 ("Act"), has been enacted by the Legislature of Indiana; and,

WHEREAS, the Act declares that the financing of economic development facilities constitutes a public purpose; and,

WHEREAS, the Act provides that an Issuer may pursuant to the Act issue revenut bonds and loan the proceeds thereof to a developer for the purpose of financing all costs of acquisition or construction of facilities, including real and personal property, and diversification of economic development and promotion of job opportunities in or near such Issuer, such revenue bonds being payable primarily from the revenues derived from the repayment of such loan; and,

WHEREAS, the Act provides that such bonds may be secured by a Trust Indenture between the Issuer and a Corporate Trustee; and,

WHEREAS, pursuant to and in accordance with the provisions of the Act, by ordinance of the Legislative Body of the City of Fort Wayne, and furtherance of the purposes of the Act, Issuer proposes to make a loan to Mark Douglas, Inc., Developer, for the purpose of financing the economic development facilities under construction or to be constructed in the City of Fort Wayne, Indiana, consisting of certain economic development facilities described in Exhibit "A" hereto; and Issuer proposes to provide funds for such loan by the issuance of its revenue bonds in the aggregate principal amount of Six Hundred Thousand Dollars ($600,000.00) under this Mortgage and Indenture of Trust and to secure said loan

by an assignment and pledge of the Agreement pursuant to which this loan is made, and Developer's promissory note issued to evidence the debt created by said loan, and the Developer will secure said loan by its promissory note, by granting a mortgage of the Project Site (as hereinafter defined) and Building (as hereinafter defined) pursuant to the direction of the Issuer to the Trustee for the benefit of the bondholders, and by subjecting the Project Equipment (as hereinafter defined) pursuant to the direction of the Issuer to the lien of this Mortgage and Indenture of Trust; and,

WHEREAS, Issuer proposes to loan to Developer and Developer desires to borrow from Issuer funds to defray the cost of financing the Project and certain incidental costs upon the terms and conditions set forth in the Agreement to make the loan and to issue its promissory note to secure such loan upon the terms and conditions set forth in said Agreement, to mortgage the Project Site (as hereinafter defined) and Building (as hereinafter defined) to the Trustee for the benefit of the bondholders, and to subject the Project Equipment (as hereinafter defined) to the lien of this Mortgage and Indenture of Trust; and,

WHEREAS, it has been determined that the estimated amount necessary to finance the cost of this Project, including necessary expense incidental thereto, will require the issuance, sale and delivery of Economic Development First Mortgage Revenue Bonds in the principal amount of $600,000.00 ("Series 1981 Bonds"), as hereinafter provided; and,

WHEREAS, the registered Series 1981 Bonds without coupons and Trustee's certificate of authentication to be endorsed on such Series 1981 Bonds are to be in substantially the following form, with appropriate variations, omissions, and insertions as permitted or required by this Indenture, to-wit:

(Form of Fully Registered Series 1981 Bond)

UNITED STATES OF AMERICA
STATE OF INDIANA
COUNTY OF ALLEN
CITY OF FORT WAYNE, INDIANA
ECONOMIC DEVELOPMENT FIRST MORTGAGE
REVENUE BOND
Series 1981 (Mark Douglas, Inc. Project)

No. 1 $600,000.00

The City of Fort Wayne, Indiana, a municipal corporation organized and existing in the County of Allen, State of Indiana (hereinafter called "Issuer"), for value received, promises to pay solely from the source and as hereinafter provided, to Anthony Wayne Bank of Fort Wayne, Indiana, or its registered assigns, the principal sum of Six Hundred Thousand Dollars ($600,000.00), with interest (computed on the basis of a 360-day year) thereon at a rate equal to sixty percent (60%) of the prime interest rate of Anthony Wayne Bank) per annum from the date hereof until paid and payable in monthly installments of interest only payable commencing on_____, 1981, and on the _____day of each month thereafter to and including_____ _____, 19__, and thereafter payable in monthly installments, each containing principal and interest and each in the amount of _____Dollars ($), payable commencing on_____, 19__, and on the_____ day of each month thereafter to and including_____, 19__, except as the provisions hereinafter set forth with respect to redemption prior to maturity may become applicable hereto, both principal of and interest on this Bond being payable in lawful money of the United States of America. The principal of and interest on this Bond is payable by check or draft mailed to the registered owner hereof at is address as it appears on the registration books of Anthony Wayne Bank, the Trustee ("Trustee") or at such other address as is furnished to the Trustee by the registered owner hereof.

This Series 1981 Bond is one of an authorized issue of Economic Development First Mortgage Revenue Bond, Series 1981 (Mark Douglas, Inc. Project) ("Series 1981 Bonds") limited, except as provided with respect to additional Bonds in a Mortgage and Indenture of Trust dated as of_____, 1981, (which document as from time to time amended and supplemented, is hereinafter referred to as the "Indenture"), in aggregate principal amount of Six Hundred Thousand Dollars ($600,000.00), issued for the purpose of financing certain economic development facilities ("Project"), in the City of Fort Wayne, Indiana, for Mark Douglas, Inc. ("Developer"), and paying necessary expenses incidental thereto so as to promote diversification of economic development and job opportunities in and near the City of Fort Wayne, Indiana. The proceeds of the Series 1981 Bonds will be loaned by Issuer to Developer ("Loan") under the terms of a Loan Agreement for the project dated as of_____, 1981 (which Agreement as from time to time amended and supplemented, is hereinafter referred to as the "Agreement"), and Developer has issued a Series 1981

Promissory Note dated as of _____, 1981 ("Series 1981 Note"), to evidence its obligation to repay the loan. The Series 1981 Bonds are all issued under and are equally and ratably secured by and entitled to the protection of the Indenture, duly executed and delivered by Issuer and Developer to Trustee, which Indenture is recorded in the Office of the Recorder of Allen County, Indiana. It is provided in the Indenture that Issuer may hereinafter issue additional Bonds from time to time under certain terms and conditions contained therein; and if issued, such additional Bonds will rank Pari Passu with this issue of Series 1981 Bonds. (The Series 1981 Bonds and any additional Bonds hereinafter issued shall be referred to as the "Bonds").

Reference is made to the Indenture for a description of the property mortgaged, and interests pledged and assigned, the provisions, among others, with respect to the nature and extent of the security, the rights, duties and obligations of Issuer, Developer, Trustee and the Holders of the Series 1981 Bonds and terms upon which the Series 1981 Bonds are issued and secured and the terms and conditions upon which the Series 1981 Bonds will be deemed to be paid at or prior to maturity or redemption of the Series 1981 Bonds, upon the making of provision for the payment thereof in the manner set forth in the Indenture, and to all the provisions of which the Holder hereof by the acceptance of this Series 1981 Bond assents.

The Series 1981 Bonds are issuable in the form of registered Series 1981 Bonds, without coupons, in the denomination of Six Hundred Thousand Dollars ($600,000.00).

This Series 1981 Bond is transferable by the registered Holder hereto in person or by its attorney duly authorized in writing at the principal office of the Trustee in the City of Fort Wayne, Indiana, but only in the manner, subject to the limitations and upon payment of the charges provided in the Indenture, and upon surrender of this Series 1981 Bond. Upon such transfer a new registered Series 1981 Bond or Bonds without coupons of authorized denomination or denominations, for the same aggregate principal amount will be issued to the Transferee in exchange therefor. The Issuer, the Trustee and any agent of the Issuer may deem and treat the registered Holder hereof as the absolute owner hereof for the purpose of receiving payment of or on account of principal hereof and premium, if any, hereon and interest due hereon and for all other purposes and neither the Issuer, the Trustee nor any agent of the Issuer shall be affected by any notice to the contrary.

Pursuant to Section 9.1 of the Agreement, the Series 1981 Bonds are non-callable for redemption prior to_____, 19__, except as provided in the Agreement. If called for redemption on or after_____, 19__, pursuant to Section 9.1 of the Agreement, the Series 1981 Bonds shall be subject to redemption by Issuer on any interest payment date, in whole or in part (in inverse order of maturities, or in the case of Bonds payable in installments, in inverse order of installments of principal to be paid) at the redemption prices (expressed as percentages of principal amount) set forth in the following table plus accrued interest to the redemption date:

Redemption Dates	Redemption Price
	100%
	100%

In the event Developer shall exercise its option to prepay the loan as provided in Section 9.2(a), (b), (c), (d), and (e) of the Agreement, the Bonds shall be subject to redemption by Issuer on any interest payment date, in whole at 100% of the principal amount thereof plus accrued interest to the redemption date.

If called for redemption pursuant to Section 2.2(k), 3.6, 4.10, 4.11 or 5.2 of the Agreement, all the Bonds shall be subject to redemption by Issuer on any interest payment date, in whole or in part (in inverse order of maturities and by lot within maturities in such manner as the Trustee may determine, or in case of Bonds payable in installments, in inverse order of installments of principal to be paid) at 100% of the principal amount thereo, plus accrued interest to the redemption date.

In the event of cumulative partial redemption of each $50,000 pursuant to any of the above redemption features, the monthly principal and interest payments shall be proportionately reduced. Until such partial redemptions accumulate to $50,000 and an adjustment is made to the monthly payment schedule, the Trustee shall cause a record of such redemptions to be kept setting forth an appropriate adjustment to the amounts allocable to principal and interest on the monthly payments made on the Series 1981 Bonds.

In the event any of the Bonds are called for redemption as aforesaid, notice thereof identifying the Bonds or portions thereof to be redeemed will be given by Trustee by mailing a copy of the

redemption notice by registered or certified mail at least ten (10) days prior to the date fixed for redemption to the registered owner of each Bond to be redeemed at the address shown on the registration books. All bonds so called for redemption will cease to bear interest after the specified redemption date provided funds for their redemption are on deposit at the place of payment at that time.

The Series 1981 Bonds are issued pursuant to and in full compliance with the Constitution and Laws of the State of Indiana, particularly the Indiana Code, Title 18, Article 6, Chapter 4.5 and pursuant to an ordinance adopted by Issuer which ordinance authorizes the execution and delivery of the Agreement and the Indenture. This Series 1981 Bond and the issue of which it forms a part are limited obligations of Issuer and are payable solely out of the revenues and other amounts derived from the Series 1981 Note and Agreement. Neither the State of Indiana, nor Issuer, nor any political subdivision shall be obligated to pay the principal of the Series 1981 Bonds or the interest thereon or other costs incident thereto except from the revenues and money pledged therefor. Neither the faith and credit nor the taxing power of the State of Indiana or any political subdivision thereof is pledged to the payment of the principal of the Series 1981 Bonds or the interest thereon or other costs incident thereto. Payments sufficient for the prompt payment when due of the principal of, premium, if any, and interest on the Series 1981 Bonds are to be paid to Trustee for the account of Issuer and deposited in a special account created by Issuer and designated "City of Fort Wayne, Indiana, Economic Development Revenue Bond Fund (Mark Douglas, Inc. Project)", and have been duly pledged and assigned for the purpose, and in addition the rights of Issuer under the Agreement and the Series 1981 Note have been assigned to Trustee to secure payment of such principal, premium, if any, and interest under the Indenture.

The holder of this Series 1981 Bond shall have no right to enforce the provisions of the Indenture or to institute action to enforce the covenants therein, or to take any action with respect to any event of default under the Indenture, or to institute, appear in or defend any suit or other proceedings with respect thereto, except as provided in the Indenture. In certain events, on the conditions, in the manner and with the effect set forth in the Indenture, the principal of all of the Series 1981 Bonds issued under the Indenture and then outstanding may become or may be declared due and payable before the stated maturity thereof,

together with interest accrued thereon. The Indenture prescribes the manner in which it may be discharged, including a provision that the Series 1981 Bonds shall be deemed to be paid if Governmental Obligations, as defined therein, maturing as to principal and interest in such amounts and at such times as will provide sufficient funds to pay the principal of, premium, if any, and interest on the Series 1981 Bonds and all fees and expenses of Trustee and any paying agent, and all other liabilities of Developer under the Agreement, shall have been deposited with Trustee, after which the Series 1981 Bonds shall no longer be secured by or entitled to the benefits of the Indenture, except for the purposes of registration and exchange of Series 1981 Bonds and of any such payment from such Governmental Obligations.

The Indenture permits, with certain exceptions as therein provided, the amendment thereof and the modification of the rights and obligations of developer and issuer and the rights of holders of the Bonds of all Series at any time by issuer with the consent of developer and the holders of two-thirds in aggregate principal amount of the Bonds of all Series at the time outstanding, as defined in the Indenture. Any such consent or waiver by the holder of this Series 1981 Bond shall be conclusive and binding upon such holder and upon all future holders of this Series 1981 Bond and of any Series 1981 Bond issued upon the transfer or exchange of this Series 1981 Bond whether or not notation of such consent or waiver is made upon this Series 1981 Bond. The Indenture also contains provisions permitting the Trustee to waive certain past defaults under the Indenture and their consequences.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and in the execution and delivery of the Indenture and the issuance of this Series 1981 Bond do exist, have happened and have been performed in due time, form and manner as required by law, that the issuance of this Series 1981 Bond and the issue of which it forms a part, together with all other obligations of issuer, do not exceed or violate any constitutional or statutory limitation; and that the revenues pledged to the payment of the principal of , premium, if any, and interest on this Series 1981 Bond and the issue of which it forms a part, as the same become due, will be sufficient in amount for that purpose.

This Series 1981 Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Indenture until the Certificate of Authentication hereon shall have been signed by the Trustee.

IN WITNESS WHEREOF, the City of Fort Wayne, Indiana, has caused this Series 1981 Bond to be executed in its name by the manual or facsimile signature of the Mayor and its corporate seal to be hereunto impressed or imprinted hereon and attested by the manual or facsimile signature of its Clerk, all as of _____, 1981.

CITY OF FORT WAYNE, INDIANA

By: _____
Winfield Moses, Jr., Mayor

ATTEST:

_____

(SEAL)

(Form of Trustee's Certificate of Authentication)

This Series 1981 Bond is one of the Series 1981 Bonds of the issuer described in the within-mentioned Mortgage and Indenture of Trust.

ANTHONY WAYNE BANK

By: _____
Authorized Officer

ASSIGNMENT

For value received, _____
hereby sell(s), assign(s) and transfer(s) unto:

_____
(Name and Address)

_____
(Social Security Number)

the within Bond, together with accrued interest thereon and all right, title and interest thereto, and hereby irrevocably authorize(s) and appoint(s) _____
Attorney to transfer said Bond on the books of the within named issuer with full power of substitution in the premises.

DATED: _____

_____

IN THE PRESENCE OF:

_____

AND:

WHEREAS, all things necessary to make the Series 1981 Bonds, when authenticated by the Trustee and issued as in this Indenture provided, the valid, binding and legal obligations of issuer according to the import thereof, and to constitute this Indenture a valid lien on the properties mortgaged and a valid assignment and pledge of the amounts to be paid for the principal of, premium, if any, and interest on the Series 1981 Bonds and a valid assignment and pledge of the rights of issuer under the Agreement (as hereinafter defined) and the Series 1981 Note (as hereinafter defined) have been done and performed, and the creation, execution and delivery of this Indenture, and the creation, execution and issuance of the Series 1981 Bonds, subject to the terms hereof, have in all respects been duly authorized;

NOW THEREFORE, THIS MORTGAGE AND INDENTURE OF TRUST WITNESSETH:

GRANTING CLAUSES

The issuer and developer in consideration of the premises and in consideration of the Loan (as hereinafter defined) under the Agreement (as hereinafter defined) and the acceptance by the Trustee of the Trusts hereby created and of the purchase and acceptance

of the Series 1981 Bonds by the holders and owners thereof, and of the sum of One Dollar ($1.00), lawful money of the United States of America, to them duly paid by the Trustee at or before the execution and delivery hereof, and for other good and valuable considerations, the receipt and sufficiency of which is hereby acknowledged, in order to secure the payment of the principal of, premium, if any, and interest on the Series 1981 Bonds according to their tenor and effect and to secure the performance and observance by issuer and developer of all the covenants expressed or implied herein and in the Series 1981 Bonds, do hereby mortgage, assign and pledge, and grant a security interest in, the following, to Anthony Wayne Bank, as Trustee, and its successors in Trust and assigns forever, for the securing of the performance of the obligations of issuer and developer hereinafter set forth:

GRANTING CLAUSE FIRST

Developer mortgages the right, title and interest of developer in the real estate described in Exhibit "A" attached hereto and made a part hereof (hereinafter defined as "Project Site"), together with the entire interest of developer in and to all buildings, structures, improvements and appurtenances now standing or presently being constructed, upon such real estate (hereinafter defined as "Building"), including all right, title and interest of developer, if any, in and to all building material, building equipment and fixtures of every kind and character whatsoever, on said real estate or in any building, structure or improvement now standing on said real estate, and the reversion or reversions, remainder or remainders, in and to said real estate and together with the entire interest of developer in and to all and singular the tenements, hereditaments, easements, rights-of-way, rights, privileges and appurtenances to said real estate, belonging or in any way appertaining thereto, and all claims or demands whatsoever of developer either at law or in equity, in possession or expectancy of, in and to said real estate, it being the intention of the parties hereto that, so far as may be permitted by law, all property of the character described above, which is now owned or to be acquired hereafter by developer and is, or is to be, affixed, attached or annexed to said real estate, shall be and remain or become and constitute a portion of said real estate and the security covered by and subject to the lien of this Indenture, subject, however, to Permitted Encumbrances (as hereinafter defined).

GRANTING CLAUSE SECOND

Issuer hereby grants, assigns and pledges the Agreement and has endorsed the Series 1981 Note (as hereinafter defined) including all extensions and renewals of the term thereof, if any, together with all right, title and interest of issuer therein, including, but without limiting the generality of the foregoing, the present and continuing right to make claim for, collect, receive and receipt for, any and all of the income, revenues, issues and profits and other sums of money payable or receivable thereunder, to bring actions and proceedings thereunder

or for the enforcement thereof, and to do any and all things which issuer is or may become entitled to do under the Agreement or the Note; provided that the Assignment and Pledge made by this Clause shall not impair or diminish any obligation of issuer under the Agreement.

GRANTING CLAUSE THIRD

All moneys and securities from time to time held by the Trustee under the terms of this Indenture (except moneys or Governmental Obligations deposited with the Trustee pursuant to Article VII hereof) and any and all other real or personal property of every type and nature from time to time hereafter by delivery or by writing of any kind conveyed, mortgaged, pledged, assigned or transferred as and for additional security hereunder by issuer, developer or by anyone on their behalf, or with their written consent, to Trustee, which is hereby authorized to receive any and all such property at any and all times and to hold and apply the same subject to the terms hereof.

GRANTING CLAUSE FOURTH

Developer grants a security interest in and to all fixtures and equipment, other than trade fixtures owned and installed by tenants of developer, owned or hereafter acquired by developer and described in Exhibit "A" attached hereto and made a part hereof (hereinafter defined as "Project Equipment"), which fixtures and equipment are to be located on the real estate described in said Exhibit "A", subject, however, to Permitted Encumbrances (as hereinafter defined).

TO HAVE AND TO HOLD all and singular the Trust Estate, whether now owned or hereafter acquired, unto Trustee and its successors in said Trust and Assigns forever.

IN TRUST NEVERTHELESS, upon the terms and trusts herein set forth for the equal and proportionate benefit, security and protection of all present and future holders and owners of the Bonds (as hereinafter defined), from time to time, issued under and secured by this Indenture without privilege, priority or distinction as to the lien or otherwise of any of the Bonds (as hereinafter defined) over any of the other Bonds (as hereinafter defined);

PROVIDED, HOWEVER that if Issuer, its successors or assigns, shall well and truly pay, or cause to be paid, the principal of, premium, if any, and interest on the Bond (as hereinafter defined) due or to become due thereon, at the times and in the manner mentioned in the Bonds (as hereinafter defined), according to the true intent and meaning thereof, and shall cause the payments to be made on the Bonds (as hereinafter defined) as required under Article IV hereof, or shall provide as permitted hereby, for the payment thereof by depositing with Trustee the entire amount due or to become due thereon, and shall well and truly keep, perform and observe all the covenants

and conditions pursuant to [illegible] kept, performed and observed by it, [illegible] be paid to Trustee all sums of money [illegible] due to it in accordance with the terms and provisions hereof, then upon the final payment thereof this Indenture and the rights hereby granted shall cease, determine and be void; otherwise this Indenture shall be and remain in full force and effect.

THIS INDENTURE OF TRUST FURTHER WITNESSETH, and it is expressly declared, that all Bonds (as hereinafter defined) issued and secured hereunder are to be issued, authenticated and delivered and all said property, rights and interests, including, without limitation, the amounts hereby assigned and pledged are to be dealt with and disposed of under, upon and subject to the terms, conditions, stipulations, covenants, agreements, trusts, uses and purposes as hereinafter expressed, and Issuer and Developer have agreed and covenanted, and do hereby agree and covenant with Trustee and with the respective holders and owners of the Bonds (as hereinafter defined) as follows (subject, however, to the provisions of Section 2.04 hereof):

ARTICLE I

DEFINITIONS

All words and phrases defined [illegible] shall have the same meaning in this Indenture. In addition, the following words and phrases shall have the following meanings:

"Agreement" means the Loan Agreement dated [illegible] _____, 1981 between Issuer and Developer and any [illegible] and supplements thereto.

"Bondholder" or "Holder" or "Owner of the Bonds" [illegible] the registered owner of any registered bond without coupons.

"Default" and "Event of Default" means any occurrence or event specified in and defined by Section 8.01 hereof.

"Governmental Obligations" means any of the following which are non-callable and which at the time of investment are legal investments under the laws of the State of Indiana for the moneys proposed to be invested therein:

i. Direct general obligations of, or obligations [illegible] payment of the principal and interest of which are unconditionally guaranteed by the United States of America;

ii. Bonds, debentures or notes issued by any of the following Federal Agencies: Bank for Cooperatives, Federal Home Loan Banks, Federal Home Loan Mortgage Corporation, Federal Intermediate Credit Banks, Federal Land Banks, [illegible] National Mortgage Association (including participation certificates); or

iii. Public housing bonds, temporary notes, or preliminary loan notes, fully secured by contracts with the United States of America.

"Outstanding" or "Bonds Outstanding" means all bonds which have been authenticated and delivered by the Trustee under this Indenture, except:

(a) Bonds cancelled after purchase in the open market or because of payment at or redemption prior to maturity;

(b) Bonds for the payment or redemption of which cash funds or securities whll have been theretofore deposited with the Trustee (whether upon or prior to the maturity or redemption date of any of such Bonds); provided, however, that if such Bonds are to be redeemed prior to the maturity thereof, notice of such redemption shall have been given or arrangements satisfactory to the Trustee shall have been made therefor, or waiver of such notice satisfactory in form to the Trustee shall have been filed with the Trustee; and

(c) Bonds in lieu of which others have been authenticated under Section 2.07 hereof.

"Registered Owner" means the person or persons in whose name or names a Bond shall be registered on the books of the Trustee kept for that purpose in accordance with the terms of this Indenture.

"Trust Estate" means the property, rights, moneys, securities and other amounts conveyed to the Trustee pursuant to the Granting Clauses hereof.

"Trustee" means Anthony Wayne Bank of Fort Wayne, Indiana, and its successors and any corporation resulting from or surviving any consolidation or merger to which it or its successors may be a party and any successor trustee at the time serving as Successor Trustee hereunder.

"Prime Rate" means the interest rate charged by Anthony Wayne Bank from time to time, to its best commercial loan customers.

(End of Article I)

ARTICLE II

THE BONDS

Section 2.01. *Authorized amount of Series 1981 Bonds.* No Bonds may be issued under the provisions of the Indenture except in accordance with this Article. The total principal amount of Series 1981 Bonds that may be issued is hereby expressly limited to Six Hundred Thousand Dollars ($600,000.00), except as provided in Sections 2.07 and 2.12 hereof.

Section 2.02. *Issuance of Bonds; Denomination; Numbered.* Any Bonds issued pursuant to the Indenture may be issued only as registered Bonds without coupons and any references herein to coupons and coupon Bonds shall be disregarded.

Registered Series 1981 Bonds without coupons issued on or subsequent to the first interest payment date thereon shall be dated as of the date one (1) month preceding the interest payment date next following the date of authentication and delivery thereof, unless such date of authentication and delivery shall be on an interest payment date, in which case they shall be dated as of such date of authentication and delivery; provided, however, that if, as shown by the records of the Trustee, interest on the Series 1981 Bonds shall be in default, registered bonds without coupons issued and exchanged for Series 1981 Bonds surrendered for transfer or exchange shall be dated as of the date to which interest has been paid in full on the Series 1981 Bonds surrendered.

Registered Bonds without coupons shall be issued in the denomination of Five Thousand Dollars ($5,000.00), or any multiple thereof, and shall be numbered from R-1 consecutively upwards.

The principal of, interest and premium, if any, on the Bonds shall be payable at the principal office of the Trustee, except that the interest on registered Bonds without coupons shall be payable by check or draft drawn upon the Trustee and mailed to the address of the holder thereof as it appears in the Bond register, as herein defined.

Section 2.03. *Execution; Limited Obligations.* The Bonds shall be executed on behalf of the issuer with the manual or facsimile signature of the Mayor, and shall have affixed, or, impressed, imprinted or otherwise reproduced thereon, the corporate seal of the issuer or a facsimile thereof and attested by the manual or facsimile signature of its Clerk. All authorized facsimile signatures shall have the same force and effect as if manually signed. The Bonds, together with interest thereon, are not general obligations of the issuer but are limited obligations payable solely from the revenues and other amounts derived from the Note or Notes and Agreement (except to the extent paid out of moneys attributable to the proceeds derived from the sale of the Bonds or to income from the temporary investment thereof and, under certain circumstances, to proceeds from insurance and condemnation awards) and shall be a valid claim of the

respective holders thereof only against the Bond Fund and other moneys held by the Trustee and the revenues and other amounts derived from the Note or Notes and Agreement, (but in addition shall be secured by a mortgage lien on the Project) which revenues and other amounts are hereby pledged, assigned, and otherwise secured for the equal and ratable payment of the Bonds and shall be used for no other purpose than to pay the principal of, premium, if any, nad interest on the Bonds, except as may be otherwise expressly authorized in this Indenture. Neither the State of Indiana, the issuer or any other political subdivision of such State shall be obligated to pay the principal of such Bonds or the interest thereon or other costs incident thereto except from the revenues and money pledged therefor. Neither the faith and credit nor the taxing power of the State of Indiana, the issuer or any political subdivision is pledged to the payment of the principal of such Bonds or the interest thereon or other costs incident thereto. In case any official of issuer whose signature or facsimile of signature shall appear on the Bonds shall cease to be such official before the delivery of such Bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes, the same as if he had remained in office until delivery.

Section 2.04. Authentication. No Bond shall be valid or obligatory for any purpose or entitled to any security or benefit under this Indenture unless and until a Certificate of Authentication on such Bond substantially in the form hereinabove shall have been duly executed by the Trustee, and such executed certificate of the Trustee upon any such Bond shall be conclusive evidence that such Bond has been authenticated and delivered under this Indenture. The Trustee's Certificate of Authentication on any Bond shall be deemed to have been executed by it if signed by an authorized officer of the Trustee, but it shall not be necessary that the same officer sign the Certificate of Authentication on all of the Bonds issued hereunder.

Section 2.05. Forms of Series 1981 Bonds. The Series 1981 Bonds in registered form shall be substantially in the form hereinabove set forth with such variations, omissions and insertions as are permitted or required by this Indenture.

2.06. Issuance and Delivery of Series 1981 Bonds. The Series 1981 Bonds shall be designated "City of Fort Wayne, Indiana, Economic Development First Mortgage Revenue Bonds, Series 1981 (Mark Douglas, Inc. Project)", shall, except as otherwise provided in Section 2.02, be dated _____, 1981, shall bear interest per annum at the rate of sixty percent (60%) of the prime interest

rate of Anthony Wayne Bank of Fort Wayne, Indiana, payable monthly with interest only payments commencing on_____, 1981, and on the _____day of each month thereafter to_____, 19__, and with principal and interest payments in the amount of $_____on_____, 19__, and on the_____day of each month thereafter to_____, 19__, said principal and interest payments being adjustable proportionately downward at the request of the developer upon the accumulation of each Fifty Thousand Dollars ($50,000) of principal amount redeemed.

The Series 1981 Bonds may be issued only in the form of registered Bonds without coupons.

Upon the execution and delivery of this Indenture, the issuer shall execute and deliver to the Trustee, and the Trustee shall authenticate, the Series 1981 Bonds, and deliver them to the purchaser or purchasers thereof as directed by the issuer as provided below.

Prior to the delivery by the Trustee of any of the Series 1981 Bonds, there shall be filed with the Trustee:

1. A copy, duly certified by the Clerk of issuer, of the ordinance adopted by the issuer, authorizing the issuance of the Series 1981 Bonds and the execution and delivery of this Indenture and the Agreement.

2. A copy, executed by the partners of developer, of a statement authorizing the execution and delivery of this Indenture, the Agreement and the Series 1981 Note or Notes.

3. Original executed counter-parts of the Agreement, this Indenture and the originally executed Series 1981 Note or Notes.

4. A certificate by developer that it has procurred title insurance or a binder for such title insurance in the form of an ALTA Mortgage Title Policy in the face amount of $600,000.00 issued by a company duly authorized to issue the same.

5. The written opinion of counsel for developer or the original purchaser of the Series 1981 Bonds, expressing the conclusion that, in reliance upon said title insurance policy and a certificate of a partner of developer with respect to the proposed location of the building and the operation to be conducted on the Project Site, developer has good and marketable title to the Building and Project Site (subject to permitted encumbrances).

6. A request and authorization to the Trustee on behalf of the issuer and signed by the Clerk of issuer to authenticate and deliver the Series 1981 Bonds to the purchasers therein identified upon payment to the Trustee, but for the account of issuer, of a sum specified in such request and authorization plus accrued interest thereon to the date of delivery. The proceeds of such payment shall be paid over to the Trustee and deposited in the Bond Fund and the construction fund pursuant to Article V hereof.

7. The written opinion of the City attorney expressing the conclusion that the execution, filing and recordation of this Indenture has been duly accomplished.

Section 2.07. [illegible]

In the event any Bond is mutilated, lost, stolen or destroyed, issuer may execute and Trustee may authenticate a new Bond of like series, date, maturity and denomination as that mutilated, lost, stolen or detroyed; provided that, in the case of any mutilated Bond, such mutilated Bond shall first be surrendered to issuer, and in the case of any lost, stolen or destroyed Bond, there shall be first furnished to issuer and Trustee evidence of such loss, theft or destruction satisfactory to issuer and Trustee, together with any indemnity satisfactory to them. In the event any such Bond shall have matured, instead of issuing a duplicate Bond, issuer may pay the same without surrender thereof. Issuer and Trustee may charge the holder or owner of such Bond with their reasonable fees and expenses in this connection.

Section 2.08. *Registration of Bonds; Persons Treated as Owners.* So long as any of the Bonds shall remain outstanding, the Trustee shall keep a register for the registration and transfer of Bonds (herein referred to as the "Bond Register").

Each registered Bond shall be transferable only on the Bond register at the principal office of the Trustee, at the written request of the registered owner thereof or his attorney duly authorized in writing, upon surrender thereof, together with a written instrument of transfer satisfactory to the Trustee duly executed by the registered owner or his duly authorized attorney.

The issuer, the Trustee and any agent of the issuer may treat the person in whose name any registered Bond is registered, as the owner of such Bond for the purpose of receiving payment of principal of, and interest on, such Bond and for all other purposes whatsoever whether or not such Bond is overdue and neither the issuer, the Trustee nor any agent of the issuer shall be affected by notice to the contrary.

Section 2.09. *Exchange; Transfer.* Registered Bonds without coupons, upon surrender thereof at the principal office of the Trustee with a written instrument of transfer satisfactory to the Trustee, duly executed by the registered owner or his duly authorized attorney, may at the option of the holder thereof, be exchanged for an equal aggregate principal amount of registered Bonds without coupons of the same series, maturity and interest rate of any other authorized denominations.

In all cases in which the privilege of exchanging Bonds or transferring registered Bonds without coupons is exercised, the issuer shall execute and the Trustee shall deliver Bonds in accordance with the provisions of the Indenture. For every exchange or transfer of Bonds the issuer or the Trustee may make a charge sufficient to reimburse it for any tax, fee or other Governmental charge required to be paid with respect to such exchange or transfer, which sum or sums shall be paid by the per-

son requesting such exchange or transfer or [illegible] to the exercise of the privilege of making such exchange or transfer. Notwithstanding any other provision of this indenture, the cost of preparing each new registered Bond without coupons upon each exchange or transfer, and any other expenses of the issuer or the Trustee incurred in connection therewith (except any applicable tax, fee or other Governmental charge) shall be paid by the developer pursuant to the Agreement. The Trustee shall not be obligated to make any such exchange or transfer of Bonds during the fifteen (15) days next preceding an interest payment date on the Bonds. The Trustee shall not be obligated to make any transfer or exchange of any Bonds called for redemption within sixty (60) days of the redemption date.

Section 2.10. *Destruction of Bonds.* Whenever any outstanding Bond shall be delivered to the Trustee for cancellation pursuant to this Indenture, upon payment of the principal amount or interest represented thereby, or for replacement pursuant to Section 2.07, or for exchange or transfer pursuant to Section 2.09, such Bond shall be promptly cancelled and burned or otherwise destroyed by the Trustee and counter-parts of a certificate of destruction evidencing such burning or other destruction shall be furnished by the Trustee to issuer and developer.

Section 2.11. *Priority over Other Liens.* This Indenture is given in order to secure funds to pay for new construction, and by reason thereof it is intended that this Indenture shall be superior to any laborer's,mechanic's or materialmen's liens which may be placed on the project.

Section 2.12. *Additional Bonds.* So long as the Agreement and the Note or Notes are in effect, one or more Series of additional Bonds may be issued, authenticated and delivered in an aggregate principal amount, approved as to legality by written opinion of counsel, for the purpose of providing funds for completing the project or making additions to the project, but only if the Trustee consents in writing to the issuance of such additional Bonds and the original purchaser of the Series 1979 Bonds is notified in writing of such proposed issue and is first given the opportunity to purchase such additional Bonds. Such additional Bonds shall be payable solely from the revenues and other amounts derived from the Agreement and an additional Note or Notes issued by developer to pay the principal of, premium, if any, and interest on such additional Bonds (except to the extent paid out of money attributable to the proceeds derived from the sale of additional Bonds or to income from the temporary investment thereof and, under certain circumstances, to proceeds from insurance and condemnation awards). The additional Bonds of each such series shall be authenticated by the Trustee and, upon payment to Trustee of the proceeds of said sale of additional Bonds, they shall be delivered to Trustee to or upon the order of the purchasers thereof, but only upon the filing with the Trustee of:

(1) A copy duly certified by the Clerk of issuer of the ordinance adopted by issuer authorizing the issuance of the additional Bonds and the execution and delivery of the supplemental Indenture and the amendment to the Agreement.

(2) Original executed counter-parts of the supplemental Indenture, an additional Note or Notes and an amendment of the Agreement.

(3) The additional Note or Notes executed by developer.

(4) A written opinion by an attorney or firm of attorneys approved by the issuer, developer and the Trustee, to the effect that the issuance of the additional Bonds and the execution thereof have been duly authorized, all conditions precedent to the delivery thereof have been fulfilled, and that the exemption from Federal Income tax of the interest on the Series 1981 Bonds and any additional Bonds theretofor issued will not be affected by the issuance of the additional Bonds being issued.

(5) A written order to the Trustee by the issuer to authenticate and deliver the additional Bonds to the purchaser or purchasers therein identified upon payment to the Trustee of a specified sum plus accrued interest.

(6) The written opinion of the City Attorney of issuer expressing the conclusion that the execution, filing and recordation of the supplemental Indenture has been duly accomplished.

(7) A title insurance policy or a binder for such title insurance or an endorsement to the original title insurance policy in the form of an ALTA Mortgage Title Policy in an amount at least equal to the value of the real estate and building improvements, if any, to be acquired or constructed and paid for out of the proceeds of the additional Bonds.

Each series of additional Bonds issued pursuant to this Section shall rank pari passu and be equally and ratably secured under the Indenture with the Series 1981 Bonds and all other series of additional Bonds, if any, theretofor issued pursuant to this Section, without preference, priority or distinction of any Bonds over any other thereof.

Notwithstanding anything contained herein to the contrary, no additional Bonds shall be issued unless the Agreement and Note or Notes are in effect and there is no default at the time of issuance under the Agreement, the Note or Notes or under this Indenture.

(End of Article II)

ARTICLE III

REDEMPTION OF BONDS BEFORE MATURITY

Section 3.01. Redemption Dates and Prices. Pursuant to Section 9.1 of the Agreement, the Series 1981 Bonds are non-callable for redemption prior to_____, 19__, except as hereinafter provided. If called for redemption on or after _____, 19__, pursuant to Section 9.1 of the Agreement, the Series 1981 Bonds shall be subject to redemption by issuer on any interest payment date in whole or in part (in inverse order of maturities, or in case of Series 1981 Bonds payable in installments, in inverse order of installments of principal to be paid) at the redemption prices (expressed as percentages of principal amount) set forth in the following table plus accrued interest to the redemption date:

Redemption Dates	Redemption Price
	100%
	100%

In the event developer shall exercise its option to prepay the Loan as provided in Section 9.2 of the Agreement, all of the Bond shall be subject to redemption by issuer on any interest payment date, in whole at 100% of the principal amount thereof plus accrued interest to the redemption date.

If called for redemption pursuant to Section 3.6, 4.10, 4.11, or 5.2 of the Agreement, the Bonds shall be subject to redemption on any interest payment date, in whole or in part (in inverse order of installments of principal to be paid) at 100% of the principal amount thereof plus accrued interest to the redemption date.

In the event of cumulative partial redemption of each $50,000.00 pursuant to any of the above redemption features, the monthly principal and interest payment shall be proportionately reduced. Until such partial redemption accumulate to $50,000.00 and an adjustment is made to the monthly payments schedule, the Trustee shall cause a record of such redemptions to be kept setting forth an appropriate adjustment to the amounts allocable to principal and interest on the monthly payments made on the Series 1981 Bonds.

Section 3.02. Notice of Redemption. Notice of the call for any redemption identifying the Bonds to be redeemed shall be given

by the Trustee by mailing a copy of the redemption notice at least fifteen (15) days prior to the date fixed for redemption to the registered owner of each Bond to be redeemed at the address shown on the registration books.

Any notice mailed as provided in this Section shall be conclusively presumed to have been duly given, whether or not it is received by the registered owner.

Section 3.03. Redemption Payments. Prior to the date fixed for redemption, funds shall be deposited with the Trustee to pay, and the Trustee is hereby authorized and directed to apply such funds, to the payment of the Bonds or portions thereof called, together with accrued interest thereon to the redemption date and any required premium. Upon the giving of notice and the deposit of funds for redemption, interest on the Bonds or portions thereof thus called shall no longer accrue after the date fixed for redemption. No payment shall be made by the Trustee upon any Bond or portion thereof called for redemption until such Bond shall have been delivered for payment or cancellation, or Trustee shall have received the items required by Section 2.07 hereof with respect to any mutulated, lost, stolen or destroyed Bond.

Section 3.04. Cancellation. All Bonds which have been redeemed shall not be reissued but shall be cancelled and burned or otherwise destroyed by the Trustee in accordance with Section 2.10 hereof.

Section 3.05. Partial Redemption of Bonds. If less than all of the Bonds outstanding at the time are to be called for redemption, the particular Bonds or portions thereof to be redeemed shall be selected by lot or by random selection by computer by the Trustee in such manner as the Trustee, in its discretion, may determine. The Trustee shall call for redemption in accordance with the foreoging provisions as many Bonds or portions thereof as will, or as nearly as practicable exhaust the moneys available therefor. Particular Bonds or portions thereof shall be redeemed only in the principal amount of $5,000.00 or more each.

If less than the entire principal amount of any registered Bond without coupons then outstanding is called for redemption, then upon notice of redemption given as provided in Section 3.02 hereof,

the owner of such registered Bond shall forthwith surrender such Bond to the Trustee in exchange for (a) payment of the redemption price of, plus accrued interest on the principal amount called for redemption, and (b) a new Bond or Bonds of like series in an aggregate principal amount equal to the unredeemed balance of the principal amount of such registered Bond, which shall be issued without charge.

(End of Article III)

Section 4.01. [illegible] Principal, Premium, if any, and Interest. Issuer covenants that it will promptly cause to be paid, solely out of the revenues and other amounts derived from the Agreement and Note or Notes and hereby specifically pledged to the payment thereof, the principal of, premium, if any, and interest on every Bond issued under this Indenture at the place on the dates and in the manner provided herein and in said Bond according to the true and intent and meaning thereof, but nothi in the Bonds or in this Indenture should be considered as pledging any other funds or assets of Issuer.

Section 4.02. [illegible] Issuer covenants that it will faithfully perform at all times any and all of its covenants, undertakings, stipulations and pr visions contained in this Indenture, in any and every Bond executed, authenticated and delivered hereunder and in all of its proceedings pertaining thereto. Issuer covenants that it is duly authorized under the Constitution and Laws of the State of Indiana, including particularly and without limitation the Act, to issue the Bonds authorized hereby and to execute this Indenture, cause the granting of the security interest herein provided, to assign the Series 1981 Note or Notes and Agreement and to pledge the revenues and other amounts payable under the Series 1981 Note or Notes and Agreement hereby pledged in the manner and to the extent herein set forth; that all actions on its part for the issuance of the Series 1981 Bonds and the execution and delivery of this Indenture have been duly and effecti taken, and that the Series 1981 Bonds in the hands of the owners thereof are and will be valid and enforceable obligations of Is according to the terms thereof and hereof.

Developer covenants that it will faithfully perform at all times all covenants, undertakings, stipulations and provisions which it has expressly undertaken to perform in this Indenture. Developer further covenants that it is fully authorized to grant the security interest that it herein provides, particularly, to mortgage the Project Site and Building and to subject the Project Equipment to the lien of the Indenture to the extent herein set forth.

Section 4.03. [illegible] To the extent permitted by law, Issuer covenants that it will do, execute, acknowledge and deliver or cause to be done, executed, acknowledged and delivered, such indentures supplemental hereto and such further acts, instruments and transfers as Trust may reasonably require for the better assuring, transferring, conveying, pledging, assigning and confirming unto the Trustee all and singular the rights assigned hereby and the revenues and other amounts payable under the Series 1981 Note or Notes and Agreement pledged hereto to the payment of the principal of, premium, if any, and interest on the Series 1981 Bonds. Issuer covenants and agrees that, except as herein and in the Agreement

provided, it will not sell, convey, mortgage, encumber or otherwise dispose of any part of the revenues and receipts payable under the Note or Notes and Agreement or its rights under the Agreement.

Developer covenants that it lawfully owns the Project Site, and that it has good and marketable title and estate thereto, except for Permitted Encumbrances. Developer covenants that it will lawfully acquire and own any and all machinery, equipment, personal property and related property defined as Project Equipment, and that any such machinery, equipment, personal property and related property becoming Project Equipment shall be acquired and kept free of all liens and encumbrances, except Permitted Encumbrances. Developer further covenants that it will defend the title to the Project and each part thereof to the Trustee, for the benefit of the holders and owners of the Bonds against the claims and demands of all persons whomsoever, subject to Permitted Encumbrances.

Developer covenants that it will do, execute, acknowledge and deliver, or cause to be done, executed, acknowledged and delivered, such indentures or indentures supplemental hereto and such further acts, instruments and transfers as the Trustee may reasonably require for the better assuring, transferring, conveying, mortgaging, pledging, assigning and confirming unto the Trustee all and singular the property herein described and mortgaged hereby and the rights assigned hereby. Developer further covenants and agrees that, except as herein and in the Agreement otherwise permitted or not prohibited, it will not sell, convey, mortgage, encumber or otherwise dispose of any part of the Project without the prior written consent of the Trustee.

Section 4.04. *List of Bondholders.* Trustee will keep on file a list of names and addresses of all Holders of Bonds and the number and amount of Bonds owned by each. Trustee shall be under no responsibility with regard to the accuracy of said list. At reasonable times and under reasonable regulations established by the Trustee, said list may be inspected and copied by Developer or by Holders (or a designated representative thereof) of fifteen percent (15%) or more in principal amount of Bonds then outstanding, such possession or ownership and the authority of such designated representative to be evidenced to the satisfaction of the Trustee.

Section 4.05. *Rights Under Agreement and Note.* The Agreement, a duly executed counterpart of which has been filed with the Trustee, and the Series 1981 Note or Notes, delivered to the Trustee, set forth the covenants and obligations of Issuer and Developer, including provisions that subsequent to the issuance of the Series 1981 Bonds and prior to their payment in full or provision for payment thereof in accordance with the provisions hereof, the Agreement and the Series 1981 Note or Notes may not be effectively amended, changed, modified, altered or terminated without the written consent of Trustee, and reference is hereby made to the same for a detailed statement of said covenants and obligations of Developer thereunder, and Issuer

agrees that Trustee in its name may enforce all rights of Issuer and all obligations of Developer under and pursuant to the Agreement or Note or Notes for and on behalf of the Bondholders, whether or not Issuer is in default hereunder.

Section 4.06. *Non-Assignment of Notes.* Pursuant to the Agreement, Issuer has assigned the Series 1981 Note or Notes to the Trustee. The Trustee represents that the Series 1981 Note or Notes are being purchased for the purpose of investment and not with a view to the distribution or re-sale thereof. Issuer and Trustee understand that the Series 1981 Note or Notes have not been registered under the Securities Act of 1933, as amended, nor under the Indiana Securities Law (I.C. 23-2-1-1 et. seq.), as amended, and must be held by Issuer and Trustee indefinitely unless the Series 1981 Note or Notes and Bonds are subsequently registered under said Acts, as amended, or an exemption from such registration upon re-sale by Issuer or Trustee is available. Issue and Trustee further understand and agree that Developer has no obligation to so register the Series 1981 Note or Notes or the Series 1981 Bond or Bonds or effect compliance with Regulation A or any other exemption under the Securities Act of 1933, as amended, or the Indiana Securities Law, as amended. Issuer and Trustee further understand and agree that since the Developer is not subject to the reporting requirements of the Securities Exchange Act of 1934, as amended, and does not intend to make "publicly available" the information referred to under Rule 15c 2-11 under the Securities Exchange Act of 1934, as amended, it is unlikely that Issuer or Trustee will be able to make public re-sale of the Series 1981 Note or Notes and the Series 1981 Bond or Bonds.

Section 4.07. *Indemnification If Interest On Series 1981 Bonds Becomes Taxable.* In the event it is finally determined by the Internal Revenue Service or a Court of competent jurisdiction that the interest payable on the Series 1981 Bonds is includable for Federal Income Tax purposes in the gross income of any Bondholder of such a Series 1981 Bond, other than a Bondholder who is a "substantial user" of the Project or a "related person", as provided in Sections 103 (b)(6) and (8) of the Internal Revenue Code of 1954, as amended, and the applicable Regulations thereunder, the Developer covenants to indemnify each such Bondholder for taxes and penalties paid by each such Bondholder in connection with such Series 1981 Bond or Bonds within ten (10) days after written notice and demand by each such Bondholder. Any such determination will not be considered final for this purpose unless the Developer has been given written notice and, if it so desires, has been afforded the opportunity to contest the same, either directly or in the name of any Bondholder of a Series 1981 Bond, and until a conclusion of any Appellate review, if sought. If such indemnification shall occur in accordance with the terms hereof, such occurrence of taxability of the interest on such Series 1981 Bond or Bonds shall not in and of itself constitute an event of default under the Agreement or this Indenture.

If the Trustee receives written notice from any Series 1981

Bondholder stating that (1) the Bondholder has been notified in writing by the Internal Revenue Service that it proposes to include the interest on any Series 1981 Bond in the gross income of such Bondholder or any other proceeding has been instituted against such Bondholder which may lead to a final determination as described above and (2) such Bondholder will afford the Developer the opportunity to contest the same, either directly or in the name of the Bondholder, and until a conclusion of any Appellate review, if sought, and the Trustee is satisfied that such information is accurate, then the Trustee shall promptly give notice thereof to the Developer and the Issuer and to the owner of each registered Series 1981 Bond then outstanding and to each Bondholder who has filed his name with the Trustee. The Trustee shall thereafter co-ordinate any similar requests or notices it may have received from other Bondholders and shall keep them informed of the progress of any administrative proceedings or litigation. If a final determination as described above thereafter occurs, the Developer shall make the required indemnification for taxes and penalties paid by the Bondholders in connection with the Series 1981 Bond or Bonds within ten (10) days after written notice and demand by the Bondholders. In taking any action or making any determination under this subsection, the Trustee may rely on an opinion of its counsel.

(End of Article IV)

ARTICLE V

REVENUES AND FUNDS

Section 5.01. *Source of Payment of Bonds.* The Bonds authorized herein and all payments by Issuer hereunder are not general obligations of Issuer but are limited obligations payable solely from revenues and receipts derived from the Note or Notes and Agreement and as authorized by the Act and provided herein.

The payments provided in the Note or Notes and in Section 4.1 of the Agreement are to be remitted directly to the Trustee for the account of Issuer and deposited in the Bond Fund. Such payments, sufficient in amount to insure the prompt payment of the principal of, premium, if any, and interest on the Bonds, are pledged to such payment.

Section 5.02. *Creation of Bond Fund.* There is hereby created by Issuer and ordered established with Trustee a Trust Fund to be designated "City of Fort Wayne Indiana, Economic Development Revenue Bond Fund (Mark Douglas, Inc. Project)", which shall be used to pay the principal of, premium, if any, and interest on the Bonds and for purposes as may be otherwise expressly authorized in this Indenture.

Section 5.03. *Payments Into Bond Fund.* There shall be deposited in the Bond Fund all accrued interest received at the time of the issuance and delivery of the Bonds or any additional Bonds. In addition, there shall be deposited in the Bond Fund, as and when received, (a) any amount in the Construction Fund directed to be paid into the special escrow account within the Bond Fund under Section 3.6 of the Agreement; (b) all payments received pursuant to the Note or Notes; (c) all payments specified in Section 4.1 of the Agreement; and (d) all other monies received by Trustee under and pursuant to any of the provisions of the Agreement which are required or which are accompanied by directions that such monies are to be paid into the Bond Fund. Issuer hereby covenants and agrees that so long as any of the Bonds issued hereunder are outstanding, it will deposit, or cause to be paid to Trustee for deposit in the Bond Fund for its account, sufficient sums from revenues and receipts derived from the Note or Notes and Agreement, promptly to meet and pay the principal of, premium, if any, and interest on the Bonds as the same become due and payable. Nothing herein should be construed as requiring Issuer to deposit or cause to be paid to Trustee for deposit in the Bond Fund, funds from any source other than receipts derived from the Note or Notes and Agreement.

Any monies deposited in the Bond Fund pursuant to Sections 2.2(k), 3.6, 4.10, 4.11 or 5.2 of the Agreement shall be held by the Trustee in a special account of the Bond Fund. Such monies shall be invested by the Trustee until used for redemption of Bonds pursuant to Section 3.01 hereof in a manner and at a rate of return which does not cause the Bonds to become taxable.

Section 5.04. *Use of Moneys in Bond Fund.* Except as provided in Section 5.11 hereof, moneys in the Bond Fund shall be used solely for the payment of the principal of, premium, if any, and interest on the Bonds, for the redemption of the Bonds prior to maturity, for the purchase of Bonds in the open market for purposes of cancellation, for the reasonable and necessary fees and expenses of the Trustee or any paying agent, and for any fees and expenses of Issuer and the commission caused by any default of Developer pursuant to Article VIII of the Agreement.

Any monies set aside at the direction of the Developer for payments of principal or interest on any Series 1981 Bond and the amount of which has been applied as a credit against the Developer's obligation to pay the Series 1981 Note or Notes pursuant to Section 4.1 of the Agreement, shall not be used for any other purpose.

Whenever the amount in the Bond Fund from any source whatsoever is sufficient to redeem all of the Bonds then unpaid and to pay the premium, if any, and interest to accrue thereon prior to such redemption, Trustee covenants and agrees to take and cause to be taken the necessary steps to redeem all of said Bonds on the earliest possible redemption date for which the required redemption notice may be given. However, any monies in the Bond Fund may be used to redeem a part of the Bonds outstanding so long as Developer is not in default with respect to any payments under the Note or Notes or Section 4.1 of the Agreement, but only to the extent said monies are in excess of the amount required for payment of the Bonds theretofore called for redemption, the premium thereon, if any, and past due interest in all cases when such Bonds have not been presented for payment.

Section 5.05. *Custody of Bond Fund.* The Bond Fund shall be in the custody of Trustee but in the name of Issuer, and Issuer hereby authorizes and directs Trustee to withdraw sufficient funds from the Bond Fund to pay the principal of, premium, if any, and interest on the Bonds as the same become due and payable, and to disburse for purposes as may be otherwise expressly authorized in this Indenture, which authorization and direction Trustee hereby accepts.

Section 5.06. *Creation of Construction Fund.* There is hereby created and established with Trustee a Trust Fund in the name of Issuer to be designated "City of Fort Wayne Indiana, Economic Development Revenue Bond Construction Fund (Mark Douglas, Inc. Project) which shall be expended in accordance with the provisions of the Agreement.

Section 5.07. *Payments into Construction Fund; Disbursements.* The proceeds of the issuance and delivery of the Bonds shall be deposited in the Construction Fund, excluding accrued interest, which shall be deposited in the Bond Fund.

Trustee is hereby authorized and directed to make each disbursement required by the provisions of the Agreement. Trustee shall keep and maintain adequate records pertaining to the Construction Fund and all disbursements therefrom, and after the

Project has been completed and certificate of payment of all costs is or has been filed as provided in Section 5.08 hereof, Trustee shall file an accounting thereof with Developer.

Section 5.08. *Completion of Project.* The completion of the Project and payment or provisions made for payment of all costs of construction shall be evidenced by the filing with Trustee and Issuer of the certificate required by the provisions of Section 3.6 of the Agreement. As soon as practicable and in any event not more than sixty (60) days from the date of the certificate referred to in the preceding sentence, any balance remaining in the Construction Fund (except amounts Developer shall have directed Trustee to retain for any costs of construction not then due or payable or to use to purchase bonds in the open market for the purpose of cancellation) shall without further authorization be deposited in the Bond Fund by Trustee.

Section 5.09. *Non-Presentment of Bonds.* In the event any Bond shall not be presented for payment when the principal thereof becomes due, either at maturity, or at the date fixed for redemption thereof, or otherwise, if funds sufficient to pay any such Bond shall have been made available to Trustee for the benefit of the Holder or Holders thereof, all liability of Issuer to the Holder thereof for the payment of such Bond, shall forthwith cease, determine and be completely discharged, and thereupon it shall be the duty of Trustee to hold such funds for five (5) years without liability for interest thereon, for the benefit of the Holder of such Bond, who shall thereafter be restricted exclusively to such funds, for any claim of whatever nature on his part under this Indenture or on, or with respect to, such Bond.

Any monies so deposited with and held by the Trustee not so applied to the payment of Bonds, within five (5) years after the date on which the same shall become due, shall be repaid by the Trustee to the Developer, and thereafter Bondholders shall be entitled to look only to the Developer for payment, and then only to the extent of the amount so repaid, and Developer shall not be liable for any interest thereon and shall not be regarded as a Trustee of such money.

Section 5.10. *Monies to Be Held in Trust.* All monies required to be deposited with or paid to Trustee for account of the Bond Fund or the Construction Fund under any provisions of this Indenture shall be held by Trustee in Trust, and except for monies deposited with or paid to Trustee for the redemption of Bonds, notice of the redemption of which has been duly given, while held by Trustee, shall constitute part of the Trust Estate and be subject to the lien or security interest created hereby.

Section 5.11. *Repayment to Developer from Bond Fund.* Any amounts remaining in the Bond Fund after payment in full of the Bonds, the fees, charges, and expenses of Trustee and all other amounts required to be paid hereunder shall be paid to Developer upon the expiration or sooner termination of the terms of the Agreement.

Section 5.12. *Condemnation and Insurance Proceeds.* The net

proceeds of condemnation award or insurance paid to the Trustee pursuant to provisions of Section 5.2 of the Agreement shall be deposited in a separate Trust account subject to the lien hereof and shall constitute part of the Trust Estate and shall be paid out in accordance with the terms and conditions of Section 5.2 of the Agreement.

(End of Article V)

Any moneys held as part of the Construction Fund or the Bond Fund shall be invested and reinvested by Trustee in accordance with the provisions of Section 3.8 of the Agreement. Any such investments shall be held by or under the control of Trustee and shall be deemed at all times a part of the fund for which they were made. The interest accruing thereon and any profit realized from such investments shall be credited to such fund, and any loss resulting from such investments shall be charged to such fund. Trustee shall sell and reduce to cash a sufficient amount of such investments whenever the cash balance in the construction fund is insufficient to pay a requisition when presented or whenever the cash balance in the Bond Fund is insufficient to pay the principal of, premium, if any, and interest on the bonds when due. Issuer, in reliance of developer's covenants in Section 3.9 of the Agreement, and Trustee, covenant and certify to each other and to and for the benefit of the purchasers of the bonds that no use will be made of the proceeds from the issue and sale of the bonds which, if such use had been reasonably expected on the date of issue of the bonds, would have caused the bonds to be classified as arbitrage bonds within the meaning of Section 103(c)(2) of the Internal Revenue Code of 1954, as amended. Pursuant to such covenant, Issuer and Trustee each obligates itself throughout the term of the issue of the bonds not to violate the requirements of Section 103(c) of the Internal Revenue Code of 1954, as amended, and any and all regulations promulgated thereunder.

It is hereby found, determined and declared that the proceeds of the sale of the bonds shall be used as provided herein with due diligence towards the acquisition and construction of the Project. It is further hereby found, determined and declared that Eighty-Five Percent (85%) of the spendable proceeds of said bonds, including any earnings on the investments thereof, will be expended in connection with the construction of the project and for the purposes for which the bonds are authorized within the three year period beginning on the date of the delivery of the bonds.

Any moneys held in a separate trust account pursuant to the provisions of Section 5.2 of the Agreement shall, at the written request of an authorized representative of developer, be invested or reinvested by the Trustee in accordance with the provisions of Section 5.2 of the Agreement. Any such investments shall be held by or under the control of the Trustee and shall be deemed at all times a part of the separate trust account in which they are held, and the interest accruing thereon and any profits realized therefrom shall be credited to such account, and any loss resulting from such investments shall also be charged to such account. Developer shall pay to the Trustee the amount of any net losses with respect to principal on such investments. The Trustee is directed to sell and reduce to cash a sufficient amount of such investments whenever

the cash balance in such separate account is insufficient for the purposes required by Section 5.2 of the Agreement.

The Trustee may make any and all investments permitted by the provisions of this Article VI through its own bond department or trust department.

(End of Article VI)

POSSESSION, USE AND PARTIAL RELEASE
OF MORTGAGE; DISCHARGE OF LIEN

Section 7.01. *Subordination to Rights of Developer.* This Indenture and the rights and privileges hereunder of the Trustee and the holders of the bonds are specifically made subject and subordinate to the rights and privileges of Developer set forth in the Agreement. So long as not otherwise provided in this Indenture, the Developer shall be suffered and permitted to possess, use and enjoy the Project and appurtenances so as to carry out its obligations under the Agreement.

Section 7.02. *Subject to Release of Easements.* Reference is made to the provisions of Section 6.4 of the Agreement, whereby Company may grant or release easements and take other action upon compliance with the terms and conditions of the Agreement. The Trustee shall execute or confirm the grants or releases of easements, licenses, rights-of-way and other rights and privileges permitted by Section 6.4 thereof upon compliance with the provisions of the Agreement.

Section 7.03. *Discharge of Lien.* If Issuer shall pay or cause to pay, or there shall be otherwise paid or provision for payment made, to or for the holders and owners of the bonds, the principal, premium, if any, and interest due or to become due thereon at the times and in the manner stipulated therein, and if Issuer and Developer shall not then be in default in any of the other covenants and promises in the bonds and in this Indenture expressed as to be kept, performed and observed by them or on their part, and shall pay or cause to be paid to Trustee all sums of money due or to become due according to the provisions hereof, then these presents and the estate and rights hereby granted shall cease, determine and be void, whereupon Trustee shall cancel and discharge the lien of this Indenture, and execute and deliver to Issuer and Developer such instruments in writing as shall be requisite to cancel and discharge the lien hereof, and reconvey to Developer any and all property, estate, right, title and interest hereby conveyed and to release, assign and deliver to Issuer any and all estate, right, title and interest in and to any and all rights assigned or pledged hereby or otherwise subject to the lien of this Indenture, except amounts in the Bond Fund which after the lapse of time provided in Article V hereof will be required to be paid to Developer under Section .511 hereof, and except moneys or securities held by the Trustee for the payment of the principal of, premium, if any, and interest on the bonds.

Any Bond shall be deemed to be paid within the meaning of this Article when payment of the principal of and the applicable redemption premium, if any, on such bond plus interest thereon to the date thereof (whether such due date be by reason of maturity or upon redemption as provided in this Indenture, or otherwise) either (1) shall have made or cause to be made in

accordance with the terms thereof [illegible] by depositing with Trustee, in [illegible] and set aside exclusively for such payment (a) moneys sufficient to make such principal or (b) governmental obligations, maturing as to principal and interest in such amount and at such times as will insure the availability of sufficient moneys to make such payment, and all necessary and proper fees, compensation and expenses of Trustee pertaining to the bonds with respect to which such deposit is made shall have been paid or the payment thereof provided for to the satisfaction of Trustee. At such times as a bond shall be deemed to be paid hereunder as aforesaid, it shall no longer be secured by or entitled to the benefits of this Indenture, except for the purposes of any such payment from such moneys or governmental obligations.

Notwithstanding the foregoing, no deposit under Clause (2) of the immediately preceding paragraph shall be deemed a payment of such bonds as aforesaid until (1) proper notice of redemption of such bonds shall have been previously given in accordance with Article III of this Indenture or in the event said bonds are not by their terms subject to redemption within the next succeeding sixty days, until Developer shall have given Trustee on behalf of Issuer, in form satisfactory to it, irrevocable instructions to notify, as soon as practicable, the holders or owners of the bonds, in accordance with Article III hereof, that the deposit required by (2) above has been made with Trustee and that said bonds are deemed to have been paid in accordance with this Article and stating such maturity or redemption date upon which moneys are to be available for the payment of the principal or redemption price, if applicable, on said bonds or (2) the maturity of such bonds. Any moneys so deposited with Trustee as provided in this Section may at the direction of Developer also be invested and reinvested in governmental obligations, maturing in the amounts and at the times as hereinbefore set forth, and all income from all governmental obligations in the hands of the Trustee pursuant to this Section which is not required for the payment of the bonds and interest and premium thereon (if any) with respect to which such moneys shall have been so deposited, shall be deposited in the Bond Fund as and when realized and collected for use and application as are other moneys deposited in that Fund.

Trustee hereby covenants that no deposit will be made or accepted hereunder, and no use made of any such deposit, which would cause the bonds to be treated as arbitrage bonds within the meaning of Section 103 (c)(2) of the Internal Revenue Code of 1954, as amended.

Notwithstanding any provision of any other Article of this Indenture which may be contrary to the provisions of this Article, all moneys or governmental obligations set aside and held in trust pursuant to the provisions of this Article for the payment of bonds (including interest and premium thereon, if any) shall be applied to and used solely for the payment of the particular bonds (including interest and premium thereon, if any) with respect to which such moneys and governmental obligations have been so set aside in trust.

Anyt[illegible] in Article [illegible] to the contrary [illegible] including, if moneys or government [illegible] obligations have been deposited or set aside with the Trustee [illegible] pursuant to this Article for the payment of bonds and such bonds [illegible] will not have in fact been actually paid in full, no amendment to the provisions of this Article shall be made without the consent of the holder of each bond affected thereby.

Section 7.04. *Release of Portions of Project Site.* Reference is made to the provisions of the Loan Agreement including without limitation, Section 4.10 thereof, whereby the Developer has reserved the right to withdraw certain portions of the land herein described and forming a part of the Project Site upon compliance with the terms and conditions of the Agreement. The Trustee shall release from the lien of this Indenture any such land or portions of the Project Site upon compliance with the provisions of the Agreement.

Section 7.05. *Release of Project Equipment.* Reference is made to the provisions of the Agreement, including without limitation, Section 4.11 thereof, whereby Developer may withdraw certain items of Project Equipment upon compliance with the terms and conditions of the Agreement. The Trustee shall at the request of Issuer or Developer confirm that any such Project Equipment is no longer subject to the lien of this Indenture upon compliance with the terms and conditions of this Agreement.

(End of Article VII)

DEFAULT PROVISIONS AND REMEDIES OF TRUSTEE AND BONDHOLDERS

Section 8.01. *Defaults; Events of Default.* If any of the following events occur, it is hereby declared to constitute an "event of default":

(a) Default in the due and punctual payment of interest on any Bond;

(b) Default in the due and punctual payment of the principal of or premium, if any, on any Bond whether at the stated maturity thereof, or upon proceedings for redemption thereof, or upon the maturity thereof by declaration;

(c) Default in the performance or observance of any other of the covenants, agreements or conditions on the part of Issuer in this Indenture or in the Bonds contained and failure to remedy the same after notice thereof pursuant to Section 8.12 hereof; or

(d) The occurrence of an "event of default" under Section 8.1 of the Agreement.

Section 8.02. *Acceleration.* Upon the occurrence of an event of default the Trustee may, and upon the written consent of the Holders of not less than twenty-five percent (25%) in aggregate principal amount of Bonds then outstanding shall, by notice in writing delivered to Issuer, declare the principal of all Bonds then outstanding and the interest accrued thereon immediately due and payable, and such principal and interest shall thereupon become and be immediately due and payable. Upon any declaration of acceleration hereunder, Issuer and Trustee shall immediately declare an amount equal to all amounts then due and payable on the Bonds to be immediately due and payable as liquidated damages in accordance with Section 8.2(a) of the Agreement.

Section 8.03. *Foreclosure of Project.* Upon the occurrence of an event of default, the lien of the Project created and vested by this Indenture may be foreclosed, either by sale or at public auction or by proceedings in equity, and the Trustee or the Holder or Holders of any of the Bonds then outstanding, whether or not then in default of payment of principal or interest, may become the purchaser at any foreclosure sale if the highest bidder.

To the extent that such rights may then lawfully be waived, neither Developer nor anyone claiming through or under Developer, shall set up, claim, or seek to take advantage of any appraisement, valuation, stay, extension or redemption laws now or hereafter in force, in order to prevent or hinder the enforcement of this Indenture or the foreclosure of the mortgage hereunder, and Developer, for itself and all who may claim through or under it, hereby waives, to the extent that it lawfully may do so, the

benefit of such laws and all rights of appraisement and redemption to which it may be entitled under the Laws of Indiana.

Section 8.04. *Other Remedies; Rights of Bondholders.* Upon the occurrence of an event of default, Trustee may, as an alternative, pursue any available remedy by suit at law or in equity to enforce the payment of the principal of, premium, if any, and interest on the Bonds then outstanding.

If an event of default shall have occurred, and if requested to do so by the Holders of twenty-five percent (25%) or more in aggregate principal amount of Bonds then outstanding and indemnified as provided in Section 9.01(1) hereof, Trustee shall be obligated to exercise such one or more of the rights and powers conferred by this Section 8.04, as Trustee, being advised by counsel, shall deem most expedient in the interests of the Bondholders.

No remedy by the terms of this Indenture conferred upon or reserved to Trustee (or to the Bondholders) is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative and shall be in addition to any other remedy given to the Trustee or to the Bondholders hereunder or now or hereafter existing at law or in equity.

No delay or omission to exercise any right or power accruing upon any default or event of default shall impair any such right or power or shall be construed to be a waiver of any such default or acquiescence therein; and such right and power may be exercised from time to time as often as may be deemed expedient.

No waiver of any default or event of default hereunder, whether by Trustee or by the Bondholders, shall extend to or shall effect any subsequent default or event of default or shall impair any rights or remedies consequent thereon.

Section 8.05. *Right of Bondholders to Direct Proceedings.* Anything in this Indenture to the contrary notwithstanding, the Holders of a majority in aggregate principal amount of the Bonds then outstanding shall have the right, at anytime, by an instrument or instruments in writing executed and delivered to Trustee, to direct the method and place of conducting all proceedings to be taken in connection with the enforcement of the terms and conditions of this Indenture, or for the appointment of a Receiver or any other proceedings hereunder; provided, that such direction shall not be otherwise then in accordance with the provisions of law and of this Indenture.

Section 8.06. *Appointment of Receivers.* Upon the occurrence of an event of default, and upon the filing of a suit or other commencement of judicial proceedings to enforce the rights of Trustee and of the Bondholders under this Indenture, Trustee shall be entitled, to the extent permitted by law, to the appointment of a Receiver or Receivers of the Trust Estate and of the revenues, earnings, income, products and profits thereof, pending such proceedings, with such powers as the Court making such appointment

Section 8.07. [illegible] All monies received by Trustee pursuant to any right given or action taken under the provisions of this Article shall, after payment of the costs and expenses of the proceedings resulting in the collection of such monies and of the expenses, liabilities or advances incurred or made by Trustee, be deposited in the Bond Fund and all monies in the Bond Fund shall be applied as follows:

(a) Unless the principal of all the Bonds shall have become or shall have been declared due and payable, all such monies shall be applied:

FIRST - to the payment to the persons entitled thereto of all installments of interest then due on the Bonds, in the order of the maturity of the installments of such interest and, if the amount available shall not be sufficient to pay in full any particular installment, then to the payment ratably, according to the amounts due on such installments, to the persons entitled thereto, without any discrimination or privilege; and

SECOND - to the payment to the persons entitled thereto of the unpaid principal and premium, if any, on any of the Bonds which shall have become due (other than Bonds called for redemption for the payment of which monies are held pursuant to the provisions of this Indenture), with interest on such Bonds from the respective dates upon which they became due and, if the amount available shall not be sufficient to pay in full Bonds due on any particular date, together with such interest, then to the payment ratably, according to the amount of principal due on such date, to the persons entitled thereto without any discrimination of privilege.

(b) If the principal of all the Bonds shall have become due or shall have been declared due and payable, all such monies shall be applied to the payment of the principal and interest then due and unpaid upon the Bonds, without preference or priority of principal over interest or of interest over principal, or of any installment of interest over any other installment of interest, or of any Bond over any other Bond, ratably, according to the amounts due respectively for principal and interest, to the persons entitled thereto without any discrimination or privilege.

(c) If the principal of all the Bonds shall have been declared due and payable, and if such declaration shall thereafter have been rescinded and annulled under the provisions of this Article then, subject to the provisions of Section 8.07(b) hereof in the event that the principal of all the Bonds shall later become due or be declared due and payable, the monies shall be applied in accordance with the provisions of Section 8.07(a) hereof.

Whenever monies are to be applied pursuant to the provisions of this Section 8.07, such monies shall be applied at such times, and from time to time, as Trustee shall determine, having due

regard to the [illegible] available for application and the likelihood of additional [illegible] becoming available for such application in the future. Whenever Trustee shall apply such funds, it shall fix the date (which shall be an interest payment date unless it shall deem another date more suitable) upon which such application is to be made and upon such date interest on the amounts of principal to be paid on such dates shall cease to accrue. Trustee shall give such notice as it may deem appropriate of the deposit with it of any such monies and of the fixing of any such date.

Whenever the principal of, premium, if any, and interst on all Bonds has been paid under the provisions of this Section 8.07 and all expenses and charges of Trustee have been paid, any balance remaining in the Bond Fund shall be paid to Developer as provided in Section 5.11 hereof.

Section 8.08. *Remedies Vested in Trustee.* All rights of action (including the right to file proof of claim) under this Indenture or under any of the Bonds may be enforced by the Trustee without the possession of any of the Bonds or the production thereof in any trial or other proceeding relating thereto, and any such suit or proceeding instituted by Trustee shall be brought in its name as Trustee without the necessity of joining as Plaintiffs or Defendants any Holders of the Bonds, and any recovery of judgment shall be for the equal and ratable benefit of the Holders of the outstanding Bonds.

Section 8.09. *Rights and Remedies of Bondholders.* No Holder of any Bond shall have any right to institute any suit, action or proceeding at law or in equity for the enforcement of this Indenture or for the execution of any Trust hereof or for the appointment of a Receiver or any other remedy hereunder, unless also a default has occurred of which the Trustee has been notified as provided in Section 9.01(h) hereof, or of which by said Sub-Section it is deemed to have notice, nor unless also such default shall have become an event of default and the Holders of twenty-five percent (25%) in aggregate principal amount of Bonds then outstanding shall have made written request to Trustee and shall have offered it reasonable opportunity either to proceed to exercise the powers hereinbefore granted or to institute such action, suit or proceeding in their own name or names, nor unless also they have offered to Trustee indemnity as provided in Section 9.01(l), nor unless Trustee shall thereafter fail or refuse to exercise the powers hereinbefore granted, or to institute such action, suit or proceeding in its own name; and such notification, request and offer of indemnity are hereby declared in every case at the option of Trustee to be conditions precedent to the execution of the powers and Trusts of this Indenture, and to any action or cause of action for the enforcement of this Indenture, or for the appointment of a Receiver or for any other remedy hereunder, it being understood and intended that no one or more Holders of the Bonds shall have any right in any manner whatsoever to effect, disturb or prejudice the lien of this Indenture by his, her, its or their action or to enforce any right hereunder except in the manner provided

herein, and [illegible] law or in equity shall be instituted, had and maintained [illegible] the manner provided herein and for the equal and ratable [illegible] of the Holders of all Bonds then outstanding. However, nothing contained in this Indenture shall effect or impair the right of any Bondholder to enforce the payment of the principal of, premium, if any, and interest on any Bond at and after the maturity thereof, or the obligation of Issuer to pay the principal of, premium, if any, and interest on each of the Bonds issued hereunder to the respective Holders thereof at the time, place, from the source and in the manner expressed in the Bonds.

Section 8.10. *Termination of Proceedings.* In the event Trustee shall have proceeded to enforce any right under this Indenture, by the appointment of a Receiver or otherwise, and such proceeding or proceedings shall have been discontinued or abandoned for any reason, or shall have been determined adversely, then and in such event, Issuer, Trustee and the Bondholder shall be restored to their former positions and rights hereunder respectively with regard to the property subject to this Indenture, and all rights, remedies and powers of Trustee shall continue as if no such proceedings had been taken.

Section 8.11. *Waiver of Events of Default.* Trustee may, at its discretion, waive any event of default hereunder and its consequences and rescind any declaration of maturity of principal, and shall do so upon the written request of the Holders of (1) more than fifty percent (50%) in principal amount of all Bonds then outstanding in respect to which default in the payment of principal or interest, or both, exists, or (2) more than fifty percent (50%) in principal amount of all Bonds then outstanding in the case of any other default; provided, however, that there shall not be waived (a) any event of default in the payment of the principal of any outstanding Bonds at the date of maturity specified therein, or (b) any default in the payment when due of the interest on any such Bonds unless prior to such waiver or recision all arrears of interest, or overdue installments of interest or all arrears of payments of principal when due, as the case may be, and all expenses of Trustee in connection with such default, shall have been paid or provided for, and in cases of any such waiver or recision, or in case any proceeding taken by Trustee on account of any such default shall have been discontinued or abandoned or determined adversely, then and in every such case, Issuer, Trustee and the Bondholders shall be restored to their former positions and rights hereunder respectively, but no such waiver or recision shall extend to any subsequent or other default, or impair any right consequent thereon.

Section 8.12. *Notice of Defaults; Opportunity of Developer to Cure Defaults.* Anything herein to the contrary notwithstanding, no default under Section 8.01(c) hereof shall constitute an event of default until actual notice of such default by registered or certified mail, or personal delivery, shall be given to Developer by Trustee or by the Holders of not less than twenty-five percent (25%) in aggregate

principal amount of all Bond[illegible] shall have had ten (10) days after [illegible] to correct said default or cause said default to be corrected, and shall not have corrected said default or caused said default to be corrected within the applicable period; provided, however, if said default be such that it cannot be corrected within the applicable period, it shall not constitute an event of default if corrective action is instituted by Developer within the applicable period and diligently pursued until the default is corrected.

(End of Article VIII)

Section 9.01. *Acceptance of Trusts.* Trustee hereby accepts the trusts imposed upon it by this Indenture, and agrees to perform said trusts, but only upon and subject to the following expressed terms and conditions:

(a) Trustee, prior to the occurrence of an event of default and after curing of all events of default which may have occurred, undertakes to perform such duties and only such duties as are specifically set forth in this Indenture. In case an event of default has occurred (which has not been cured or waived) Trustee shall exercise such of the rights and powers vested in it by this Indenture, and use the same degree of care and skill in their exercise, as a prudent man would exercise or use under the circumstances in the conduct of his own affairs.

(b) Trustee may execute any of the trusts or powers hereof and perform any of its duties by or through attorneys, agents, receivers or employers but shall be answerable for the conduct of the same in accordance with the standard specified above, and shall be entitled to advise of counsel concerning its duties hereunder, and may in all cases pay such reasonable compensation to all such attorneys, agents, receivers and employees as may reasonably be employed in connection with the trusts hereof. Trustee may act upon the opinion or advise of any attorney (who may be the attorney or attorneys for Developer), approved by Trustee in the exercise of reasonable care. Trustee shall not be responsible for any loss or damage resulting from any action or inaction in good faith, taken or not taken, in reliance upon such opinion or advise.

(c) Trustee shall not be responsible for any recital herein, or in the Bonds (except with respect to the Certificate of Trustee endorsed on the Bonds), or for the recording or re-recording, filing or re-filing of this Indenture or any other instrument required by this Indenture to secure the Bonds, or for insuring the Project or collecting any insurance monies, or for the validity of the execution by Issuer of this Indenture, or of any supplements thereto or instruments of further assurance, or for the sufficiency for the security for the Bonds issued hereunder or intending to be secured hereby, or for the value or title of the Project or otherwise as to the maintenance of the security hereof; and Trustee shall not be bound to ascertain or inquiry as to the performance or observance of any covenants, conditions or agreements on the part of Issuer or on the part of Developer under the Agreement in connection with the matters referred to in Section 4.5 thereof, except as hereinafter set forth; but Trustee may require of Developer full information and advise as to the performance of the covenants, conditions and agreements aforesaid and as to the condition of the property herein mortgaged.

(d) Trustee shall not be accountable for the use of any

the owner of [illegible] hereunder [illegible]
would have if it were not the [illegible] hereunder.

(e) Trustee shall be protected in acting upon any notice, request, consent, certificate, order, affidavit, letter, telegram or other paper or document believed to be genuine and correct and to have been signed or sent by the proper person or persons. Any action taken by Trustee pursuant to this Indenture upon the request or authority or consent of any person who at the time of making such request or giving such authority or consent is the owner of any Bond, shall be conclusive and binding upon all future owners of the same Bond and upon Bonds issued in exchange therefor or in place thereof.

(f) As to the existence or non-existence of any fact or as to the sufficiency or validity of any instrument, paper or proceeding, Trustee shall be entitled to rely upon a certificate signed by an authorized representative of Issuer or Developer as sufficient evidence of the facts therein contained and prior to the occurrence of a default of which Trustee has been notified as provided in Section 9.01(h) hereof, or of which by Section 9.01(h) it is deemed to have notice, shall also be at liberty to accept a similar certificate to the effect that any particular dealing, transaction or action is necessary or expedient, but may at its discretion secure such further evidence deemed by it to be necessary or advisable, but shall in no case be bound to secure the same. Trustee may accept a certificate of the Clerk under the Seal of Issuer to the effect that a resolution in the form set forth therein has been adopted by Issuer as conclusive evidence that such resolution has been duly adopted, and is in full force and effect.

(g) The permissive right of Trustee to do things enumerated in this Indenture shall not be construed as a duty and it shall not be answerable for other than its own negligence or willfull default.

(h) Trustee shall not be required to take notice or be deemed to have notice of any default hereunder except failure by Issuer to cause to be made any of the payments to Trustee required to be made under Article IV hereof or failure by Issuer or Developer to file with Trustee any document required by this Indenture or the Agreement to be so filed, subsequent to the issuance of the Bonds, unless Trustee shall be specifically notified in writing of such default by Issuer or by the Holders of at least twenty-five percent (25%) in aggregate principal amount of Bonds then outstanding, and all notices or other instruments required by this Indenture to be delivered to Trustee must, in order to be effective, be delivered at the principal office of Trustee, and in the absence of such notice so delivered, Trustee may conclusively assume that there is no default except as aforesaid.

(i) At any and all reasonable times, Trustee, and its duly authorized agents, attorneys, experts, engineers, accountants

and representatives, shall have the right fully to inspect any and all of the property and rights herein mortgaged, including all books, papers and records of Issuer pertaining to the Project and the Bonds, and to take such memoranda from and with regard thereto as may be desired.

(j) Trustee shall not be required to give any Bond or surety in respect to the execution of the said trusts and powers or otherwise in respect of the premises.

(k) Notwithstanding anything elsewhere in this Indenture with respect to the authentication of any Bonds, the withdrawal of any cash, or any action whatsoever within the purview of this Indenture, Trustee shall have the right, but shall not be required, to demand any showings, certificates, opinions, appraisals or other information, or other action or evidence thereof in addition to that required by the terms hereof as a condition of such action, by Trustee deemed desirable for the purpose of establishing the rights of Issuer to the authentication of any Bonds, the withdrawal of any cash, or the taking of any other action by Trustee.

(l) Before taking the action referred to in Section 8.4 or 8.09 hereof, Trustee may require that a satisfactory Indemnity Bond be furnished for the reimbursement of all expenses to which it may be put and to protect it against all liabilty, except liability which is adjudicated to have resulted from its own negligence or willfull default in connection with any such action.

(m) All monies received by Trustee shall, until used or applied or invested as herein provided, be held in trust for the purposes for which they were received, but need not be segregated from other funds except to the extent required by law.

Section 9.02. *Fees, Charges and Expenses of Trustee.* Trustee shall be entitled to payment and reimbursement from the Bond Fund for reasonable fees for its services rendered hereunder and all expenses reasonably and necessarily made or incurred by Trustee in connection with such services, including any advances and attorney fees. Upon an event of default, but only upon an event of default, Trustee shall have a first lien with rights of payment prior to payment on account of principal of, premium, if any, and interest on any Bond, upon the Trust Estate for the foregoing fees, charges and expenses incurred by it.

Section 9.03. *Notice to Bondholders of Default.* If a default occurs of which Trustee is required by Section 9.01(h) hereof to take notice, or if notice of default be given as therein provided, then Trustee shall promptly give written notice thereof by registered or certified mail, or personal delivery, to the owners of Bonds then outstanding and to each Holder of Bonds then outstanding shown by the list of the Bondholders required by the terms of Section 4.04 hereof to be kept at the office of Trustee.

Section 9.04. [illegible] In any judicial proceeding relating to the Pro[illegible] of this Issue of Bonds to which Issuer is a party and wh[illegible] in the opinion of Trustee and its counsel has a substantial bearing on the interests of owners of the Bonds, Trustee may intervene on behalf of the Bondholders and shall do so if requested in writing by the owners of at least twenty-five percent (25%) of the aggregate principal amount of Bonds then outstanding.

Section 9.05. *Successor Trustee.* Any corporation or association into which Trustee may be converted or merged, or with which it may become consolidated, or to which it may sell or transfer its trust business and assets as a whole or substantially as a whole, or any corporation or association resulting from any such conversion, sale, merger, consolidation or transfer to which it is a party, shall be and become Successor Trustee hereunder and vested with all of the title to the Trust Estate and all of the trusts, powers, discretions, immunities, privileges and all other matters as was its predecessor, without the execution or filing of any instrument or any further act, deed or conveyance on the part of any of the parties hereto, anything contained herein to the contrary notwithstanding.

Section 9.06. *Resignation of Trustee.* Trustee and any Successor Trustee may at anytime resign from the trusts hereby created by giving thirty (30) days written notice by registered or certified mail, or personal delivery, to Issuer and Developer and to the owner of each Bond as shown by the list of the Bondholders required by Section 4.04 hereof to be kept by Trustee, and such resignation shall become effective at the end of such thirty (30) days, or upon the earlier appointment of a Successor Trustee by the Bondholders or by Issuer.

Section 9.07. *Removal of Trustee.* Trustee may be removed at anytime, by an instrument or concurrent instruments in writing delivered to Trustee and to Issuer, and signed by the owners of a majority in aggregate principal amounts of Bonds then outstanding.

Section 9.08. *Appointment of Successor Trustee.* In case Trustee hereunder shall resign or be removed, or be dissolved, or shall be in course of dissolution or liquidation, or otherwise become incapable of acting hereunder, or in the case it shall be taken under the control of any public officer or officers, or of a Receiver appointed by a Court, a Successor Trustee may be appointed by the owners of a majority in aggregate principal amount of Bonds then outstanding, by an instrument or concurrent instruments in writing signed by such owners, or by their attorneys in fact, duly authorized, and a copy of which shall be delivered personally or sent by registered mail or certified mail to Issuer; but until a new Trustee shall be so appointed by the Bondholders, then Issuer, by an instrument executed by its Mayor, with the written consent of an authorizing officer or partner of Developer, may appoint a Trustee to fill such vacancy until a new Trustee shall be appointed by the Bondholders as aforesaid, and when any new Trustee shall

be appointed by the Bondholders [illegible] Trustee the [illegible] appointed by Issuer shall thereupon and [illegible] by succeeded and retired. Every such Trustee appointed pursuant to the provisions of this Section shall be a Trust Company or Bank in good standing and with trust powers, having a reported capital and surplus of not less than seventy-five percent (75%) of that of the original Trustee, if there be such an institution willing, qualified and able to accept the trust upon customary terms.

Section 9.09. *Acceptance by Successor Trustee.* Every Successor Trustee appointed hereunder shall execute, acknowledge and deliver to its or his predecessor an also to Issuer and Developer an instrument in writing accepting such appointment hereunder, and thereupon such Successor, without any further act, deed or conveyance, shall become fully vested with all of the estates, properities, rights, powers, trusts, duties and obligations of its predecessors; but such predecessor shall, nevertheless, on the written request of Issuer, or of its Successor, execute and deliver an instrument transferring and assigning to such Successor all of the estates, properties, rights, powers and trusts of such predecessor hereunder; and every predecessor Trustee shall deliver all securities and monies held by it as Trustee hereunder to its Successor. Should any instrument in writing from Issuer or Developer be required by any Successor Trustee for more fully and certainly vesting in such Successor the estate, rights, powers and duties hereby vested or intended to be vested in the predecessor, any and all such instruments in writing shall, on request, be executed, acknowledged and delivered by Issuer and Developer. The resignation of any Trustee and the instrument or instruments removing any Trustee and appointing a Successor hereunder, together with all other instruments provided for in this Article, shall be filed or recorded by the Successor Trustee in each recording office where this Indenture shall have been filed or recorded.

Section 9.10. *Recording and Filing.* Developer and Trustee covenant and agree that they will cooperate in causing this Indenture and all supplements hereto, as well as any other security agreements, financing statements and all supplements thereto, and any other document as may be required, or requested by Issuer or any other party hereto, to be placed of record, to be recorded and filed in such manner and in such places as may be required by law in order to fully preserve and protect the security of the Holders and owners of the Bonds, and the rights of Trustee hereunder, and to perfect the security interest created by this Indenture.

Section 9.11. *Appointment of Co-Trustees.* It is the purpose of this Indenture that there shall be no violation of any law of any jurisdiction (including particularly the law of Indiana) denying or restricting the right of banking corporations or associations to transact business as Trustees in such jurisdiction. It is recognized that in case of litigation under this Indenture or the Agreement, and particularly in case of the enforcement of either on default, or in case Trustee deems that by reason of any present or future law of any jurisdiction it

[illegible] or any of the powers, rights or remedies [illegible] herein [illegible] or [illegible] or other security, or title to the properties, in trust, as granted herein, or take any other action which may be desirable or necessary in connection therewith, it may be necessary that Trustee appoint an additional individual, corporation or association as a separate or Co-Trustee. The following provisions of this Section are adapted to these ends:

In the event that Trustee appoints an additional individual, corporation or association as a separate or Co-Trustee, then each and every remedy, power, right, claim, demand, cause of action, immunity, estate, title, interest and lien expressed or intended by this Indenture to be exercised by, or vested in, or conveyed to Trustee with respect thereto shall be exercisable by, and vest in, such separate or Co-Trustee, but only to the extent necessary to enable such separate or Co-Trustee to exercise such powers, rights and remedies, and every covenant and obligation necessary to the exercise thereof by such separate or Co-Trustee shall run to, and be enforceable by, either of them.

Should any instrument in writing from Trustee be required by the separate Trustee or Co-Trustee so appointed by Trustee for more fully and certainly vesting in and confirming to him or it such properties, rights, powers, trusts, duties and obligations, any and all such instruments in writing shall, on request, be executed, acknowledged and delivered by Issuer. In case any separate Trustee or Co-Trustee, or a Successor to either, shall die, become incapable of acting, resign or be removed, all of the estates, properties, rights, powers, trusts, duties and obligations of such separate Trustee or Co-Trustee, so far as permitted by law, shall vest in and be exercised by Trustee until the appointment of a new Trustee or Successor to such separate Trustee or Co-Trustee.

(End of Article IX)

SUPPLEMENTAL INDENTURES

Section 10.01. *Supplemental Indentures Not Requiring Consent of Bond Holders.* Issuer, Developer and Trustee may, without the consent of, or notice to any of the Bond Holders, enter into an indenture or indentures supplemental to this Indenture which shall not be inconsistent with the terms and conditions hereof for any one or more of the following purposes:

(A) To cure any ambiguity or formal defect or omission in this Indenture;

(B) To grant to or to confer upon Trustee for the benefit of the Bond Holders any additional rights, remedies, powers or authority that may lawfully be granted to or conferred upon the Bond Holders or Trustee;

(C) To subject to this Indenture additional revenues, properties or collateral;

(D) To modify, amend or supplement this Indenture or any indenture supplemental hereto in such manner as to permit the qualification Hereof and thereof under the Trust Indenture Act of 1939 or any similar Federal statute hereinafter in effect or to permit the qualification of the bonds for sale under the securities laws of the United States or of any state or states thereof, and, if they so determine, to add to this Indenture or any indenture supplemental hereto such other terms, conditions and provisions as may be permitted by said Trust Indenture Act of 1939 or similar Federal Statute;

(E) To evidence the appointment of a separate Trustee or a Co-Trustee or the successor of a new trustee or paying agent hereunder; or

(F) In connection with the issuance of additional bonds hereunder.

Section 10.02. *Supplemental Indentures Requiring Consent of Bond Holders.* Exclusive of supplemental indentures covered by Section 10.01 hereof and subject to the terms and provisions contained in this Section, and not otherwise, the holders of not less than two-thirds in aggregate principal amount of the bonds then outstanding shall have the right, from time to time, anything contained in this Indenture to the contrary notwithstanding, to consent to and prove of the execution by Issuer, Developer and Trustee, of such other indenture or indentures supplemental hereto as shall be deemed necessary and desirable by Issuer for the purpose of modifying, altering, amending, adding to or rescinding, in any particular, any of the terms or provisions contained in this Indenture or in any supplemental indenture; provided, however, that nothing in this Section contained shall permit, or be construed as permitting (a) an extention of the maturity of the principal of or the interest on, any bond issued hereunder, or

(b) a reduction [illegible], or redemption premium, [illegible], any [illegible] or (c) a privilege or priority of any bond or bonds over any other bond or bonds, or (d) a reduction in the aggregate principal amount of the bonds required for consent to such supplemental indenture, without the written consent of the owners of all the bonds then outstanding.

If at any time Issuer shall request Trustee to enter into any such supplemental indenture for any of the purposes of this Section, Trustee shall, upon being satisfactorily indemnified with respect to expenses, cause notice of the proposed execution of such supplemental indenture to be mailed to all Bond Holders. Such notice shall briefly set forth the nature of the proposed supplemental indenture and shall state that copies thereof are on file at the principal office of Trustee for inspection by all Bond Holders. If, within thirty days after the mailing of such notice, the holders of not less than two-thirds in aggregate principal amount of the bonds outstanding at the time of the execution of any such supplemental indenture shall have consented to and approved the execution thereof as herein provided, no holder of any bond shall have any right to object to any of the terms and provisions contained therein, or the operation thereof, or in any manner to question the propriety of the execution thereof, or to enjoin or restrain Trustee, Developer or Issuer from executing the same or from taking any action pursuant to the provisions thereof. Upon the execution of any such supplemental indenture as in this Section permitted and provided, this Indenture shall be and be deemed to be modified and amended in accordance therewith.

Anything herein to the contrary notwithstanding, a supplemental indenture under this Article shall not become effective unless and until Developer shall have executed and delivered such supplemental indenture.

(End of Article X)

Section 11.01. *Amendments, etc., to Agreement and Notes Not Requiring Consent of Bond Holders.* Issuer, Developer and Trustee shall, without the consent of or notice to the Bond Holders, consent to any amendment, change or modification of the Agreement or Note or Notes as may be required (a) by the provisions of the Agreement, the Note or Notes and this Indenture, (b) for the purpose of curing any ambiguity or formal defect or omission, (c) so as to more precisely identify property or collateral or substitute or add additional property or collateral or additional rights or interests in property acquired in accordance with the provisions of the Agreement or Note or Notes, which property or collateral is to be subject to the lien of the Indenture, (d) in connection with any other change therein which, in the judgment of Trustee, is not to the prejudice of Trustee or the Bond Holders, or (e) in connection with the issuance of additional bonds hereunder.

Section 11.02. *Amendments, etc., to Agreement and Notes Requiring Consent of Bond Holders.* Except for the amendments, changes or modifications as provided in Section 11.01 hereof, neither Issuer, Developer nor Trustee shall consent to any other amendment, change or modification of the Agreement or Note of Notes without notice to and the written approval or consent of the holders of not less than two-thirds in aggregate principal amount of the bonds then outstanding given as in this Indenture provided; except that no amendment of the Note or Notes shall permit (a) an extention of the maturity or any installment of principal of or interest on the Note or Notes or (b) a reduction in the principal amount of any installment or principal of, or redemption premium or rate of interest on the Note or Notes, without the written consent of the owners of all of the bonds then outstanding. If at any time Issuer and Developer shall request the consent of Trustee to any such proposed amendment, change or modification of the Agreement or Note or Notes, Trustee shall, upon being satisfactorily indemnified with respect to expenses, cause notice of such proposed amendment, change or modification to be mailed as provided in Section 10.02 hereof with respect to supplemental indentures. Such notice shall briefly set forth the nature of the proposed amendment, change or modification, and shall state that copies of the instrument embodying the same are on file at the principal office of Trustee for inspection by all Bond Holders.

(End of Article XI)

Section 12.01. [illegible]. Any consent, request, direction, approval, objection or other instrument required by this Indenture to be signed and executed by the Bond Holders may be in any number of concurrent documents and may be executed by such Bond Holders in person or by agent appointed in writing. Proof of the execution of any such consent, request, direction, approval, objection or other instrument or of the writing appointing any such agent and of the ownership of bonds, if made in the following manner shall be sufficient for any of the purposes of this Indenture, and shall be conclusive in favor of Trustee with regard to any action taken by it under such request or other instrument, namely:

(A) The fact and date of the execution by any person of any such writing may be proved by the certification of any officer in any jurisdiction who, by law has power to take acknowledgments within such jurisdiction that the person signing such writing acknowledged before him the execution thereof, or by an affidavit of any witness to any such execution.

(B) The fact of the holding by any person of bonds transferrable by delivery and the amount and numbers of such bonds, and the date of the holding of the same, may be proved by certificate, deemed by Trustee to be satisfactory, executed by any trust company, bank or banker, wherever situated, stating that at the date thereof, the party named therein did exhibit to an officer of such trust company or bank or to such banker, as the property of such party, the bonds therein mentioned. Trustee may in its discretion, require evidence that such bonds have been deposited with a bank or trust company before taking any action based on such ownership. In lieu of the foregoing, Trustee may accept other proofs as it shall deem appropriate.

For all purposes of this Indenture and of the proceedings for the enforcement hereof, such person shall be deemed to continue to be the holder of such bond until Trustee shall have received notice in writing to the contrary.

Section 12.02. [illegible]. With the exception of rights herein expressly conferred, nothing expressed or mentioned in or to be implied from this Indenture or the bonds is intended or shall be construed to give to any person or company other than the parties hereto, and the holders of the bonds, any legal or equitable right, remedy or claim under or with respect to this Indenture or any covenants, conditions and provisions herein contained; this Indenture and all of the covenants, conditions and provisions hereof are intended to be and remain for the sole and exclusive benefit of the parties hereto and the holders of the bonds as herein provided.

Section 12.03. [illegible]. If any provision of this Indenture shall be held or deemed to be or shall, in fact, be illegal, inoperative or unenforceable, the same shall not affect

any other provision or provisions herein contained to render the same invalid, inoperative or unenforceable to any extent whatsoever.

Section 12.04. *Notices.* Any notice, request, complaint, demand, communication or other paper shall be sufficiently given and shall be deemed given when personally delivered or mailed by registered or certified mail, postage prepaid, with return receipt requested, or sent by telegram, addressed as follows: If to Issuer, Attention: Clerk, City of Fort Wayne, City-County Building, 1 Main Street, Fort Wayne, Indiana 46802; if to Trustee, Attention: Trust Department, Anthony Wayne Bank, 203 East Berry Street, Fort Wayne, Indiana 46802; and if to Developer, Attention: Mark Douglas, Inc., 1140 Lake Avenue, Fort Wayne, Indiana . A duplicate copy of each notice required to be given hereunder by Trustee to either Issuer or Developer shall also be given to the other. Issuer, Developer and Trustee may designate any further or different addresses to which subsequent notices,certificates or other communications shall be sent.

Section 12.05. *Payments Due on Saturdays, Sundays and Holidays.* In any case where the date of maturity of interest or principal of the bonds, or the date fixed for redemption of any bond, shall be in the City of Fort Wayne, Indiana, a Saturday, Sunday or legal holiday or a day on which banking institutions are authorized by law to close, then payment of principal, premium, if any, or interest need not be made on such date but may be made on the next succeeding business day with the same force and effect as if made on the date of maturity or the date fixed for redemption, and no interest shall accrue for the period after such date.

Section 12.06. *Counterparts.* This Indenture may be simultaneously executed in several counterparts, each of which shall be considered as an original and all of which shall constitute but one and the same instrument.

Section 12.07. *Applicable Provisions of Law.* This Indenture shall be governed by and construed in accordance with the Laws of the State of Indiana.

Section 12.08. *Captions.* The captions or headings in this Indenture are for convenience only and in no way define, limit, or describe the scope or intent of any provision or section of this Indenture.

(End of Article XII)

IN WITNESS WHEREOF, the City of Fort Wayne, Indiana, has caused these presents to be signed in its name and behalf by the Mayor and its official seal to be hereunto affixed and attested by it Clerk, and Mark Douglas, Inc., Developer, has caused these presents to be signed in his name and behalf by his own hand, and to evidence its acceptance of the trusts hereby created, Anthony Wayne Bank has caused these presents to be signed and sealed in its name and behalf by its duly authorized officer, as of the day first above written.

CITY OF FORT WAYNE

By: _____
WINFIELD MOSES, JR., MAYOR

ATTEST:

_____

MARK DOUGLAS, INC., DEVELOPER

By: _____

ANTHONY WAYNE BANK, as Trustee

By: _____

STATE OF INDIANA)
) SS:
COUNTY OF ALLEN)

Before me, the undersigned Notary Public, in and for said County and State, personally appeared Winfield Moses, Jr., and Charles W. Westerman, personally known to me to be the Mayor and Clerk respectively, of the City of Fort Wayne, State of Indiana, and acknowledged the execution of the foregoing Mortgage and Indenture of Trust for and on behalf of said City.

WITNESS MY HAND AND NOTARIAL SEAL THIS_____day of_____, 1981.

My Commission Expires:

_____ _____
Notary Public
(Resident of Allen County, Indiana)

STATE OF INDIANA)
) SS:
COUNTY OF ALLEN)

Before me, the undersigned Notary Public, in and for said County and State,personally appeared _____the _____of Mark Douglas, Inc., and also appeared_____ _____the_____of Anthony Wayne Bank, and acknowledged the execution of the foregoing Mortgage and Indenture of Trust for and on behalf of said Developer and for and on behalf of said Trustee.

WITNESS MY HAND AND NOTARIAL SEAL THIS_____day of_____, 1981.

My Commission Expires:

_____ _____
Notary Public
(Resident of Allen County, Indiana)

This instrument prepared by: Norman S. Snow, Attorney.

EXHIBIT B

CITY OF FORT WAYNE ECOMONIC DEVELOPMENT
FIRST MORTGAGE REVENUE BONDS
SERIES 1981
MARK DOUGLAS, INC. PROJECT

FOR VALUE RECEIVED, the undersigned, Mark Douglas, Inc. ("Developer"), hereby promises to pay to the order of the City of Fort Wayne, Indiana ("Issuer"), on or before 11 o'clock a.m. (prevailing Fort Wayne time), the principal sum of $600,000.00 with interest at the rate of sixty percent (60%) of the prime interest rate of Anthony Wayne Bank of Fort Wayne, Indiana (calculated on the basis of a 360-day year consisting of twelve 30-day months) in installments as provided below: (a) on _____, interest on the principal amount of the bonds from_____ _____; and (b) on the last day of each month thereafter during the term of the Loan Agreement (the "Agreement") dated as of _____, between Issuer and Developer commencing on_____ _____, to and including_____ _____, a sum which, together with other moneys available therefore in the Bond Fund under the Mortgage and Indenture of Trust (the "Indenture") dated as of_____, 1981, among Issuer, Developer and Anthony Wayne Bank, Fort Wayne, Indiana, as Trustee (the "Trustee"), will equal the sum of (i) the interest which will become due on the Series 1981 Bonds (as hereinafter defined) on the next succeeding day and (ii) the principal amount of the Series 1981 Bonds which will become due at maturity or by any mandatory sinking fund redemption on the next succeeding day.

The monthly payments specified in this Note shall be applied first to the payment of interest on the unpaid principal indebtedness, the balance to the reduction of said principal, provided that if the regular monthly payment is made in advance, the interest shall be computed and immediately collected from such advance payment as if the regular semi-annual payment was made when due.

Payments of both principal and interest are to be endorsed to the Trustee, and are to be made directly to the Trustee for the account of the Issuer pursuant to such endorsement. Such endorsement is to be made as security for the payment of the bonds of the designated "City of Fort Wayne Economic Development First Mortgage Revenue Bonds, Series 1981 (Mark Douglas, Inc.

Project)" issued pursuant to the Indenture (the "Series 1981 Bonds"). All of the terms, conditions and provisions of the Indenture are, by this reference thereto, incorporated herein as a part of this Series 1981 Note.

This Series 1981 Note is issued pursuant to the Agreement, and is entitled to the benefits, and is subject to the conditions thereof. The obligations of Mark Douglas, Inc. to make the payments required hereunder shall be absolute and unconditional without any defense or right of set-off, counterclaim or recoupment by reason of any default by Issuer under the Agreement or under any other agreement between Developer and Issuer out of any indebtedness or liability at any time owing to the Developers by the Issuer or for any other reason.

This Series 1981 Note is subject to prepayment under the terms and conditions, and in the amounts, provided in Article IX of the Agreement.

If an "event of default" occurs under Section 8.1 of the Agreement, the principal of this Series 1981 Note may be declared due and payable in the manner and to the effect provided in Article VIII of the Agreement.

In any case where the date of payment hereunder shall be in the City of Fort Wayne, Indiana, a Saturday, Sunday or legal holiday or a day on which banking institutions are authorized by law to close, then such payment shall be made on the next succeeding business day with the same force and effect as if made on the date of payment hereunder.

All terms used in this Series 1981 Note which are defined in the Agreement shall have the meanings assigned to them in the Agreement.

IN WITNESS WHEREOF, Mark Douglas, Inc. has caused this Series 1981 Note to be duly executed, attested and delivered as of _____.

MARK DOUGLAS, INC.

(SEAL) By: _____

ATTEST:

_____

ENDORSEMENT

Pay to the order of Anthony Wayne Bank of Fort Wayne, as Trustee under the Mortgage and Indenture of Trust dated as of_____, 1981, without recourse against the Issuer.

CITY OF FORT WAYNE

By:_____

(SEAL)

Attest:

_____

LEASE AGREEMENT

BY AND BETWEEN

MARK DOUGLAS, INC., LESSOR

AND

D.O. McCOMB & SONS, INC., LESSEE

LEASE AGREEMENT

Table of Contents

		Page
PARTIES		1
ARTICLE I	Definitions	
Section 1.1.	Definitions	1
ARTICLE II	Demising Clauses	
Section 2.1.	Demise of Premises	1
ARTICLE III	Use of Project and Representations	
Section 3.1.	Use of Project	1
Section 3.2.	Quiet Enjoyment	1
Section 3.3.	Representations	2
ARTICLE IV	Acquisition of Building	
Section 4.1.	Acquisition of Building; Effectiveness of this Lease	2
ARTICLE V	Lease Term and Possession	
Section 5.1.	Lease Term and Possession	3
ARTICLE VI	Rents and Other Amounts Payable	
Section 6.1.	Rents	3
Section 6.2.	Other Amounts Payable	3
ARTICLE VIII	Net Lease, Non-Terminability	
Section 7.1.	Net Lease	4
Section 7.2.	Non-Terminability	4
ARTICLE VIII	Assumption of Lessor's Obligations Under Loan Agreement	
Section 8.1.	Assumption of Lessor's Obligations Under Loan Agreement	5

		Page
ARTICLE IX	Limitations on Assignments	
Section 9.1.	Limitation on Assignments, Mortgages and Leases by Lessee; Amendments, Terminations, etc.	6
ARTICLE X	Events of Default and Remedies	
Section 10.1.	Events of Default Defined	6
Section 10.2.	Remedies on Default	7
ARTICLE XI	Miscellaneous	
Section 11.1.	Notices, Demands and Other Instruments	8
Section 11.2.	Estoppel Certificate	9
Section 11.3.	Surrender	9
Section 11.4.	Binding Effect	9
Section 11.5.	Headings	10
Section 11.6.	Corporate Existence; Limitation on Merger and Consolidation	10
SIGNATURES AND SEALS		11
EXHIBIT A	Rent Schedule	13

LEASE AGREEMENT, dated as of_____, 1981, between Mark Douglas, Inc. (herein called Lessor), having the address of 1140 Lake Avenue, Fort Wayne, Indiana, and D.O. McComb & Sons, Inc. (herein called Lessee), having the address of 1140 Lake Avenue, Fort Wayne, Indiana.

ARTICLE I

Definitions

Section 1.1. Definitions. Except as otherwise provided herein, the terms used herein which are defined in the Loan Agreement dated as of_____, 1981 (herein called the Loan Agreement) between the City of Fort Wayne, a municipal corporation (herein called the Issuer) and the Lessor named herein shall have the same meanings assigned to them in the Loan Agreement, and all other terms used herein which are defined in the Indenture (as Indenture is defined in the Loan Agreement) shall have the same meanings assigned to them in the Indenture unless the context otherwise requires.

ARTICLE II

Demising Clauses

Section 2.1. Demise of Premises. In consideration of the rents and covenants herein stipulated to be paid and performed and during the term herein provided, Lessor hereby demises and lets to Lessee the premises, consisting of (i) the Project Site and (ii) the Building, both subject to permitted Encumbrances and upon the terms and conditions hereinafter specified, (such premises being herein called the Project). A true and complete executed counterpart of the Loan Agreement has been furnished Lessee which hereby acknowledges the receipt thereof.

ARTICLE III

Use of Project and Representations

Section 3.1. Use of Project. Lessee shall occupy and use the Project for the purpose of assembly, sale and warehousing.

Section 3.2. [illegible] If [illegible] as Lessee shall observe and perform all [illegible]ants, agreements and obligations required by it to be observed and performed hereunder,

Lessor warrants peaceful and quiet occupation and enjoyment of the Project by Lessee; provided, that the Issuer or Lessor or their respective agents may enter upon and examine the Project at reasonable times. Lessee represents and agrees to remain in good standing and qualified to do business in the State of Indiana during the term of this lease.

Section 3.3. Representations. Lessor will duly perform and observe the obligations and conditions imposed upon it under the Loan Agreement to the extent that such obligations and conditions are not provided herein to be performed or observed by Lessee; provided, however, that in the event Lessor fails to perform or observe any obligation or condition which is to be performed or observed by it under Loan Agreement and which is not provided herein to be performed or observed by Lessee, Lessee shall have the right, at any time and from time to time, to make any payments or take any action necessary to prevent or cure any default under the Loan Agreement, and Lessee shall have a claim against Lessor to be reimbursed for the amount of such payment or the cost of such action, but as long as any Bonds are outstanding under the Indenture, such claim shall not be enforceable against the Lessor or against the Basic Rent, as hereinafter defined in Section 6.1 hereof, or any other amounts payable by Lessee hereunder or against the Project or any interest therein, unless and until the principal (and premium, if any) and all accrued interest on the Bonds issued under the Indenture then due and payable shall have been paid in full.

ARTICLE IV

Acquisition of Building

Section 4.1. Acquisition of Building; Effectiveness of this Lease. Under the provisions of Section 3.1 of the Loan Agreement, the Lessor has agreed to acquire the Building in accordance with the terms and conditions set forth therein. Notwithstanding anything to the contrary contained herein, Lessee agrees that the terms and conditions of said Section 3.1 in favor of Lessor are for its benefit only and that this Lease does not purport to grant any rights or privileges or benefits thereunder to Lessee. Accordingly, all approvals, waivers, consents, changes and acceptances which Lessor is or may become entitled to grant or withhold under said Section 3.1 may be granted or withheld by Lessor in its sole discretion and without regard to this Lease.

ARTICLE V

Lease Term and Possession

Section 5.1. Lease Term and Possession. Subject to the terms and conditions herein, Lessee shall have and hold the Project for the Lease Term to [illegible] / [illegible], 19[illegible], [illegible] unless renewed by the parties hereto by further mutual agreement in writing. Unless so renewed, this Lease shall automatically terminate at the end of the Lease Term then in effect and Lessor shall have the right during the remainder of the Lease Term then in effect to erect signs on the Project advertising for reletting and to show the Project to prospective tenants or purchasers as long as the same does not unreasonably interefere with the use of the Project by Lessee.

ARTICLE VI

Rents and Other Amounts Payable

Section 6.1. Rents. Lessee covenants to pay to Lessor, as installments of rent for the Project during the Lease Term of this Lease, the rents set forth on Schedule A attached hereto but in no event less than the respective note payments and other amounts which the Lessor is obligated to pay to the Issuer under Section 4.1 of the Loan Agreement or the Series 1979 Note or Notes (herein called the Basic Rent) on the respective dates set forth on Section 4.1 of the Loan Agreement. Lessee agrees to pay each installment of the Basic Rent within the continental United States or to such other person as Lessor from time to time may designate to Lessee in writing. Lessee shall be entitled to the same credits on Basic Rent as the Lessor is entitled to on its note payment obligations to the Issuer under the Loan Agreement.

Section 6.2 Other Amounts Payable Lessee covenants to pay and discharge when the same shall become due all other amounts, liabilities and the obligations which Lessee assumes or agrees to pay or discharge pursuant to this Lease, together with every fine, penalty, interest and cost which may be added for non-payment or late payment thereof. In the event of any failure by Lessee to pay or discharge any of the foregoing, Lessor shall have all rights, powers and remedies provided herein, by law or otherwise in the case of non-payment of the Basic Rent. Lessee will also pay to Lessor on demand as additional rent, interest at the rate of 10% per annum on all overdue installments of Basic Rent and on all overdue amounts of additional rent relating to obligations which Lessor shall have paid on behalf of the Lessee, in either case, from the due date thereof until paid in full.

ARTICLE VII

Net Lease, Non-Terminability

Section 7.1. Net Lease. This is a net lease and the Basic Rent, additional rent and all other sums payable hereunder by Lessee shall be paid during the Lease Term without set-off, counterclaim, abatement, suspension, deduction or defense.

Section 7.2. Non-Terminability. Except as otherwise expressly provided in this Lease, this Lease shall not terminate, nor shall Lessee have any right to terminate this Lease nor shall Lessee be entitled to any abatement or reduction of rent hereunder nor shall the obligations of Lessee under this Lease be affected, by reason of (i) any damage to or the destruction of all or any part of the Project from whatever cause, (ii) the taking of the Project or any portion thereof by condemnation, eminent domain or otherwise for any reason, (iii) the prohibition, limitation or restriction of Lessee's use of all or any part of the Project, or any interference with such use, (iv) any eviction by paramount title or otherwise, (v) Lessee's acquisition or ownership of all or any part of the Project, or (vi) any other cause whether similar or dissimilar to the foregoing, any present or future law to the contrary notwithstanding; it being the intention of the parties hereto that the obligations of Lessee hereunder shall be separate and independent covenants and agreements, that the Basic Rent, the additional rent and all other sums payable by Lessee hereunder shall continue to be payable in all events and that the obligations of Lessee hereunder shall continue unaffected, unless the requirement to pay or perform the same shall have been terminated or reduced pursuant to an express provision of this Lease or pursuant to a credit to which it is entitled as stated in Section 6.1 hereof.

Lessee agrees that it will remain obligated under this Lease in accordance with its terms, and that it will not take any action to terminate, rescind or avoid this Lease, notwithstanding (i) the bankruptcy, insolvency, reorganization, composition, readjustment, liquidation, dissolution, winding-up or other proceeding affecting the Issuer, Lessor or any assignee of Lessor in any such proceeding, and (ii) any action with respect to this Lease which may be taken by any trustee or receiver of the Issuer or Lessor or of any assignee of Lessor in any such proceeding or by any court in any such proceeding.

Lessee waives all rights which may now or hereafter be conferred by law (i) to quit, terminate or surrender this Lease or the Project or any part thereof, or (ii) to any abatement, suspension, deferment or reduction of the Basic Rent, additional rent or any other sums payable under this Lease, except as otherwise expressly provided herein.

ARTICLE VIII

Assumption of Lessor's Obligations Under Loan Agreement

Section 8.1. Assumption of Lessor's Obligations Under Loan Agreement. Lessee hereby agrees to perform and observe fully all covenants and conditions to be performed or observed by Lessor, and to grant or waive all rights and remedies granted or waived by Lessor, in accordance with the provisions of Section 4.8 (Maintenance, Taxes and Insurance), Article V (Damage, Destruction and Condemnation), Section 6.4 (Granting Easements), Section 6.5 (Release and Indemnification Covenants), Section 6.6 (Tax Exempt Status of Bonds), Article IX (Prepayment of Loan), Section 8.4 (Pay Attorney's Fees and Expenses), Section 8.5 (No Additional Waiver of the Loan Agreement).

In addition to the obligations of Lessee under the foregoing paragraph, the provisions of Section 4.8, Article V, Section 6.4, Section 6.5, Section 6.6, Article IV, Section 8.3, Section 8.4, Section 8.5, and Article IX of the Loan Agreement are hereby incorporated as though set forth herein in full as provisions of this Lease, and the term "Company" as used therein shall refer to Lessee hereunder; the term "Issuer" as used therein shall refer to Lessor hereunder; the term "Agreement" as used therein shall refer to this Lease; and the capitalized terms used therein which are defined in both the Loan Agreement and this Lease shall refer to such terms as the same are defined in this Lease.

In the event of taking all or any part of the Project pursuant to condemnation or eminent domain proceedings, or in the event the Project or any part thereof shall be damaged or destroyed by fire or other casualty, or in the event of changes in the constitution of Indiana or the United States of America, or in the event of a Determination of Taxability, this Lease shall continue and/or terminate as provided in Article VII and Section 9.2(a), (b), (c), (d), (e), and (f) respectively, of the Loan Agreement.

In the event of either damage or destruction or a taking pursuant to condemnation or eminent domain proceedings, Lessee

hereby assigns any payment or award to which Lessee may be or become entitled by reason thereof to the Trustee as contemplated by Sections 5.1 and 5.2 of the Lease to be applied as provided therein.

ARTICLE IX

Limitations on Assignments

Section 9.1. Limitation on Assignments, Mortgages and Leases by Lessee; Amendments, Terminations, etc. As long as any Bond shall remain outstanding under the Indenture, neither this Lease nor the leasehold estate hereby created shall, under any circumstances, be assigned or transferred, or mortgaged or encumbered by Lessee to secure the payment of indebtedness, by Lessee, nor shall the Project, or any part thereof, be leased by Lessee, without, in each case, the prior written consent of Issuer and the Issuer or the Trustee.

No assignment or transfer or mortgage or encumbering of this Lease or said leasehold estate, and no lease of the whole or any part of the Project by Lessee shall in any way affect or reduce any of the obligations or Lessee under this Lease, but this Lease shall continue in full force and effect.

As long as any Bonds remain outstanding under the Indenture, this Lease may not be effectively amended, changed, modified, altered or terminated without the written consent of Trustee, except that the rent payable hereunder may be increased if agreed to by the parties hereto.

ARTICLE X

Events of Default and Remedies

Section 10.1. Events of Default Defined. The following shall be "events of default" under this Lease, and the terms "events of default" or "default" shall mean, whenever they are used in this Lease, any one or more of the following events:

(a) Failure by the Lessee to pay the rents required to be paid under Sections 6.1 and 6.2 hereof at the times specified therein and continued for one day business day.

(b) Failure by the Lessee to observe and perform any covenant, condition or agreement on its part to be observed or performed, other than as referred to in subsection (a) of this Section, for a period of thirty (30) days after written notice, specifying such failure and requesting that it be

remedied, given to the Lessee by the Lessor or the Trustee, unless the Lessor and the Trustee shall agree in writing to an extension of time prior to its expiration.

If a failure under this Section 10.1(b) be such that it cannot be corrected within the applicable period, it shall not constitute an event of default if corrective action is instituted by the Lessee within the applicable period and diligently pursued until the failure is corrected as provided in Section 1013 of the Indenture.

(c) The dissolution or liquidation of the Lessee, or the filing by the Lessee of a voluntary petition in bankruptcy, or failure by the Lessee promptly to lift any execution, garnishment or attachment of such consequence as will impair its ability to carry on its operations at the Project or the commission by the Lessee of any bankruptcy, or adjudication of the Lessee as a bankrupt, or assignment by the Lessee for the benefit of its creditors, or the entry by the Lessee unto an agreement of composition with its creditors, or the approval by a court of competent jurisdiction of a petition applicable to the Lessee in any proceeding for its reorganization instituted under the provisions of the general bankruptcy act, as amended, or under any similar act which may hereafter be enacted.

The term "dissolution" or "liquidation of the Lessee", as used in this subsection, shall not be construed to include the cessation of the corporate existence of the Lessee resulting either from a merger or consolidation of the Lessee into or with another corporation or a dissolution or liquidation of the Lessee following a transfer of all or substantially all of its assets as an entirety, under the conditions permitting such actions contained in Section 11.6 hereof. A default under this Section 10.1(c) shall not constitute an event of default so long as the payments called for in Article VI hereof are made.

Section 10.2. Remedies on Default. Whenever any event of default referred to in Section 10.1 hereof shall have happened and be subsisting, the Lessor may take any one or more of the following remedial steps:

(a) The Lessor or the Trustee as provided in the Indenture may, at its option, after the continuance of the event of default for thirty (30) days after written notice given to the Lessee, specifying the event of default, declare all installments of rent payable under Article VI hereof for the remainder of the Lease Term

to be immediately due and payable, whereupon the same shall become immediately due and payable. If the Lessor or the Trustee elect to exercise the remedy afforded in this Section 10.2(a) and accelerate all installments of rent payable under Article VI hereof for the remainder of the Lease Term, this amount then due and payable by the Lessee as accelerated rent shall be the sum of:

(i) all principal payments of the Bonds then outstanding and unpaid, and

(ii) all interest payments on the Bonds then due, together with the interest payments to become due at the accelerated redemption date, and

(iii) any premium on the Bonds payable if the Trustee elects or is required to declare all of the principal of and interest on the Bonds immediately due and payable under Section 1002 of the Indenture.

(b) The Lessor, with the prior written consent of the Trustee, may re-enter and take possession of the Project without terminating this Lease, relet the Project for the account of the Lessee, holding the Lessee liable for the difference in the rent and other amounts payable by such sub-lessee in such sub-leasing and the rents and other amounts payable by the Lessee hereunder.

(c) The Lessor, with the prior written consent of the Trustee, may terminate the Lease Term, exclude the Lessee from possession of the Project and use its best efforts to lease the Project to another, holding the Lessee liable for all rent and other payments due up to the effective date of such leasing.

(d) The Lessor may take whatever action at law or in equity may appear necessary or desirable to collect the rent and any other amounts payable by Lessee hereunder, then due and thereafter to become due, or to enforce performance and observance of any obligation, agreement or covenant of the Lessee under this Lease.

ARTICLE XI

Miscellaneous

Section 11.1. Notices, Demands and Other Instruments. All notices, demands, requests, consents, approvals and other instru-

ments required or permitted to be given pursuant to the terms of this Lease shall be in writing and shall be deemed to have been properly given if (a) with respect to Lessee, sent by registered or certified mail, postage prepaid, addressed to Lessee at its address first above set forth, and (b) with respect to Lessor, sent by registered or certified mail, postage prepaid, addressed to Lessor at its address first above set forth. Lessor and Lessee shall each have the right from time to time to specify as its address for purposes of this Lease any other address in the United States of America upon giving 15 days' written notice thereof, similarly given to the other party.

Section 11.2. Estoppel Certificate. Lessee will, at any time and from time to time, upon not less than 20 days' prior request by Lessor, execute, acknowledge and deliver to Lessor a statement in writing, duly executed by an authorized signatory, certifying that this Lease is unmodified and in full effect (or, if there have been mofidications, that this Lease is in full effect as modified, and setting forth such modifications) and the dates to which the Basic Rent, additional rent and other sums payable hereunder have been paid,and either stating that to the knowledge of the signer of such certificate no default exists hereunder or specifying each such default or which the signer may have knowledge.

Section 11.3. Surrender. Upon the expiration or earlier termination of this Lease, Lessee shall peaceably leave and surrender the Project to Lessor in the same condition in which the Project was originally received from Lessor at the commencement of this Lease, except as repaired, rebuilt, restored, altered, or added to as permitted or required by any provisions of this Lease and except for ordinary wear and tear. Lessee shall remove from the Project on or prior to such expiration or earlier termination all property situated thereon which is not owned by the Lessor or Lessor, and, at its expense, shall, on or prior to such expiration or earlier termination, repair any damage caused by such removal. Property not so removed shall become the property of Lessor, and Lessor may thereafter cause such property to be removed from the Project and disposed of, but the cost of any such removal and disposition and the cost of repairing any damage caused by such removal shall be borne by Lessee.

Section 11.4. Binding Effect. All of the covenants, conditions and obligations contained in this Lease shall be binding upon and inure to the benefit of the respective successors and assigns of Lessor and Lessee to the same extent as if each such successor and assign were in each case named as a part to this Lease. This Lease may not be changed, modified or discharged except by a writing signed by Lessor and Lessee.

Section 11.5. Headings. The headings to the various paragraphs of this Lease have been inserted for convenient reference only and shall not to any extent have the effect of modifying, amending or changing the expressed terms and provisions of this Lease.

Section 11.6. Corporate Existence; Limitation on Merger and Consolidation. No Lessee, without the prior written consent of the Trustee which consent shall not be unreasonably withheld, shall enter into any merger, acquisition or consolidation or acquire all or substantially all the assets of any person, firm, joint venture or corporation, or sell, lease, or otherwise dispose of any of its assets except in the ordinary course of its business, or permit any subsidiary so to do, except that any Lessee may be merged or consolidated with any other Lessee.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be signed and sealed as of the date first above written.

LESSOR

MARK DOUGLAS, INC.

By: _____

(SEAL)

Attest:

_____

LESSEE

D. O. McCOMB & SONS, INC.

By: _____

(SEAL)

Attest:

_____

STATE OF INDIANA)
) SS:
COUNTY OF ALLEN)

Before me,_____, a Notary Public in and for the State and County aforesaid, personally appeared _____and_____, both of whom I am personally acquainted with, and who, upon their oaths, acknowledged themselves to be the_____and _____, respectively of Mark Douglas, Inc., one of the within named bargainers, and that they, as such_____ _____and_____ being authorized to do, executed the foregoing instrument for the purposes contained therein by subscribing thereto the name of said Company and attesting the official seal of said Company by themselves as such_____ _____and_____, respectively.

WITNESS my hand and notarial seal of office at Fort Wayne, Indiana, this_____day of_____, 1981.

My Commission Expires:

_____ _____

Notary Public
(Resident of Allen County, Indiana)

(SEAL)

STATE OF INDIANA)
) SS:
COUNTY OF ALLEN)

Before me,_____, a Notary Public in and for the State and County aforesaid, personally appeared _____and_____, both of whom I am personally acquainted with, and who, upon their oaths, acknowledged themselves to be the_____and _____, respectively of D.O. McComb & Sons, Inc., one of the within named bargainers, and that they, as such _____and_____ being authorized to do, executed the foregoing instrument for the purposes contained therein by subscribing thereto the name of said Company and attesting the official seal of said Company by themselves as such _____and_____, respectively.

WITNESS my hand and notarial seal of office at Fort Wayne, Indiana, this_____day of_____, 1981.

My Commission Expires:

_____ _____
Notary Public
(Resident of Allen County, Indiana

(SEAL)

ASSIGNMENT OF LEASE

For value received, the undersigned hereby assigns that certain Lease Agreement dated the_____day of_____, 1981, by and between the undersigned as Lessor and D.O. McComb & Sons, Inc., as Lessee, to Anthony Wayne Bank, Trustee, under Agreement dated as of the_____day of_____, 1981, as additional security pursuant to the terms and conditions of that certain Loan Agreement of _____, 1981, between the said Anthony Wayne Bank, Trustee, and the undersigned.

Dated this_____day of_____, 1981.

MARK DOUGLAS, INC., DEVELOPER

By:_____

By:_____

STATE OF INDIANA)
) SS:
COUNTY OF ALLEN)

Before me,_____, a Notary Public in and for said County and State, personally appeared_____ and_____, the_____and _____, respectively of Mark Douglas, Inc., and upon their oaths, acknowledged and executed the foregoing instrument for and on behalf of said corporation and by its authority for the purposes contained therein by subscribing thereto.

WITNESS my hand and notarial seal of office at Fort Wayne, Indiana, this_____day of_____, 1981.

(SEAL)

My Commission Expires:

_____ _____
Notary Public
(Resident of Allen County, Indiana)

CITY OF FORT WAYNE, INDIANA

AND

MARK DOUGLAS, INC.

LOAN AGREEMENT

Dated as of_____, 1981

TABLE OF CONTENTS

(This Table of Contents is not a part of the Loan Agreement and is only for convenience of reference.)

		Page
PARTIES		1
PREAMBLES		1
ARTICLE I	DEFINITIONS	3-6
ARTICLE II	REPRESENTATIONS	
Section 2.1.	Representations by Issuer	7
Section 2.2.	Representations by Developers	7-9
ARTICLE III	COMMENCEMENT AND COMPLETION OF THE PROJECT; ISSUANCE OF THE BONDS	
Section 3.1.	Agreement to Acquire and/or Construct the Project	10
Section 3.2.	Ownership and Use of Project	10
Section 3.3.	Agreement to Issue Series 1979 Bonds; Application of Bond Proceeds	10
Section 3.4.	Disbursements from the Construction Fund	11
Section 3.5.	Furnishing Documents to Trustee	11
Section 3.6.	Establishment of Completion Date	11
Section 3.7.	Developers Required to Pay in Event Construction Fund Insufficient	12
Section 3.8.	Investment of Construction Fund and Bond Fund Moneys	12
Section 3.9.	Covenants With Respect to Arbitrage	12-13
ARTICLE IV	PROVISIONS FOR PAYMENT	
Section 4.1.	Loan Payments and Other Amounts Payable; Notes; and Credits	14
Section 4.2.	Payments Pledged	15
Section 4.3.	Obligations of Developers Unconditional	15
Section 4.4.	No Abatement of Loan Payments	16

		Page
Section 4.5.	Insurance [illegible]	16
Section 4.6.	Additional [illegible] Insurance	16
Section 4.7.	Advances	17
Section 4.8.	Payment for Maintenance and Modifications of Project	17
Section 4.9.	Taxes, Other Governmental Charges and Utility Charges	18
Section 4.10	Payment for Release of Portions of Project Site	19
ARTICLE V	DAMAGE, DESTRUCTION AND CONDEMNATION; USE OF NET PROCEEDS	
Section 5.1.	Damage, Destruction and Condemnation	20
Section 5.2.	Application of Net Proceeds	20-2
Section 5.3.	Insufficiency of Net Proceeds	21
ARTICLE VI	SPECIAL COVENANTS	
Section 6:1.	No Warranty of Condition or Suitability by Issuer	22
Section 6.2.	Right of Access to the Project	22
Section 6.3.	Granting of Easements	22
Section 6.4.	Release and Indemnification Covenants	22
Section 6.5.	Tax Exempt Status of Bonds	23
Section 6.6.	Further Assurances and Corrective Instruments	23
ARTICLE VII	ASSIGNMENT, PLEDGE, MORTGAGING AND SELLING	
Section 7.1.	Assignment	24
Section 7.2.	Assignment and Pledge of Interest in This Agreement by Issuer	24
Section 7.3.	Redemption of Bonds	24
Section 7.4.	References to Bonds Ineffective After Bonds Paid	24-2
Section 7.5.	Mortgaging and Leasing of Project	25
Section 7.6.	Restrictions on Sale of Project	25

ARTICLE VIII	EVENTS OF DEFAULT AND REMEDIES	
Section 8.1.	Events of Default Defined	26
Section 8.2.	Remedies on Default	27
Section 8.3.	No Remedy Exclusive	27
Section 8.4.	Agreement to Pay Attorneys' Fees and Expenses	28
Section 8.5.	No Additional Waiver Implied by One Waiver	28
ARTICLE IX	PREPAYMENT OF LOAN	
Section 9.1.	Option to Prepay the Loan	29
Section 9.2.	Conditional Options and Obligation to Prepay the Loan	29-30
Section 9.3.	Prepayment Price	30
Section 9.4.	Notice of Prepayment	31
Section 9.5.	Relative Position of this Article and Indenture	31
ARTICLE X	MISCELLANEOUS	
Section 10.1.	Agreement Term	32
Section 10.2.	Notices	32
Section 10.3.	Binding Effect	32
Section 10.4.	Severability	32
Section 10.5.	Amounts Remaining in Bond Fund	32
Section 10.6.	Amendments, Changes and Modifications	33
Section 10.7.	Execution in Counterparts	33
Section 10.8.	Applicable Law	33
Section 10.9.	Captions	33
TESTIMONIUM		34
SIGNATURES AND SEALS		34
EXHIBIT A		35
EXHIBIT B		36-47
ENDORSEMENT		36

LOAN AGREEMENT

LOAN AGREEMENT dated as of_____, 1981, between the City of Fort Wayne, a municipal corporation organized and existing under the laws of the State of Indiana ("Issuer"), and Mark Douglas, Inc. ("Developer"):

WITNESSETH:

WHEREAS, the Indiana Code, Title 18, Article 6, Chapter 4.5 (the "Act") has been enacted by the Legislature of Indiana; and

WHEREAS, the Act provides that an issuer may pursuant to the Act issue revenue bonds and loan the proceeds thereof to a developer or user for the purpose of financing all costs of purchase or construction of facilities, including real and personal property, for diversification of economic development and promotion of job opportunities in or near such issuer, such revenue bonds being payable primarily from the revenues derived from the repayment of such loan; and

WHEREAS, pursuant to and in accordance with the provisions of the Act, by ordinance or ordinances of the legislative body of the Issuer, in furtherance of the purposes of the Act, Issuer proposes to make a loan to Developers for the purpose of acquisition, construction, installation and equipping of economic development facilities under construction or to be construed in the City of Fort Wayne, Indiana, consisting of certain economic development facilities described in Exhibit A hereto; and Issuer proposes to provide funds for such loan by the issuance of its revenue bonds in the aggregate principal amount of $600,000.00 under a Mortgage and Indenture of Trust and to secure said loan by an assignment and pledge of the agreement pursuant to which the loan is made and Developers' promissory note issued to evidence and secure the debt created by said loan, and by directing the Developers, in consideration of this loan, to mortgage the Project Site (as hereinafter defined) and Building (as hereinafter defined) to a corporate trustee for the benefit of the bondholders; and

WHEREAS, Issuer proposes to loan to Developers and Developers desire to borrow from Issuer funds to defray the cost of financing the Project and certain incidental costs thereto and to issue its promissory note to secure such loan upon the terms and conditions set forth herein, to mortgage the Project Site (as hereinafter defined) and Building (as hereinafter defined) to a corporate

trustee for the benefit of the bondholders in consideration of the loan to it by the Issuer;

NOW, THEREFORE, for and in consideration of the premises and the mutual covenants hereinafter contained, the parties hereto agree as follows:

ARTICLE I

DEFINITIONS

"Act" shall mean the Indiana Code, Title 18, Article 6, Chapter 4.5.

"Agreement" means this Loan Agreement and any amendments and supplements hereto.

"Agreement Term" means the duration of this agreement as specified in Section 10.1 hereof.

"Bonds" means the Economic Development First Mortgage Revenue Bonds, Series 1981 (Mark Douglas, Inc.) and any Additional Bonds of the Issuer, if any are permitted to be issued pursuant to the Indenture.

"Bond Fund" means the fund created in Section 5.02 of the Indenture.

"Building" means all buildings, structures and facilities forming a part of the Project.

"Commission" means the Fort Wayne Economic Development Commission, an economic development commission created by the Issuer.

"Completion Date" means the date of completion of the construction of the Project, as that date shall be certified as provided in Section 3.6 hereof.

"Construction Fund" means the fund created in Section 5.06 of the Indenture.

"Costs of Construction" with respect to the Project shall be deemed to include those items included in Section 23 of the Act including, but not limited to:

(i) obligations of Issuer or of Developers incurred for labor and materials (including obligations payable to Developers) in connection with the acquisition, construction, installation and equipping of the Project;

(ii) the cost of contract bonds and of insurance of all kinds that may be required or necessary during the course of construction of the Project;

(iii) all costs and expenses of site preparation, engineering services, including the costs of Issuer or Developers for test borings, surveys, estimates, plans and specifications and preliminary investigation therefor, and for supervising construction, as well as for the performance of all other duties required by or consequent upon the proper construction of the Project;

(iv) all costs and expenses incurred in connection with the issuance of the Bonds for the purpose of providing funds for construction of the Project, including without limitation compensation and expenses of Trustee, underwriting and legal expenses of Trustee, underwriting and legal expenses and fees, costs of printing and engraving, recording and filing fees;

(v) all costs and expenses which Issuer or Developers shall be required to pay, under the terms of any contract or contracts, for the acquisition, construction, installation or equipping of the Project (excluding the cost of ecquiring the Project Site); and

(vi) any sums required to reimburse Issuer or Developers for advances made by either of them for any of the above items or for any other costs incurred and for work done by either of them which are properly chargeable to the Project.

"Developers" mean Mark Douglas, Inc. and its successors and assigns.

"Force Majeure" means any cause or event not reasonably within the control of the Developers, including, without limitation, the following: acts of God; strikes, lockouts or industrial disturbances; acts of public enemies; restraining orders of any kind by the government of the United States of America or of the State of Indiana or any of their departments, agencies, or officials, or any civil or military authority; insurrections; riots; landslides; earthquakes; fires; storms; droughts; floods; explosions; breakage or accident to machinery where rental or replacement machinery is not readily available, transmission pipes or canals.

"Indenture" means the Mortgage and Indenture of Trust, dated as of_____, 1981, among Issuer, Developer and Anthony Wayne Bank, Fort Wayne, Indiana, as Trustee, pursuant to which the Bonds are authorized to be issued and the interest of Issuer in this Agreement and in the Note or Notes and the revenues

received by Issuer under this Agreement and under the Note or Notes, as well as the Project Site and Building, are to be pledged and mortgaged, respectively, as security for the payment and principal of, premium, if any, and interest on the Bonds, including any indenture supplemental thereto.

"Issuer" means the City of Fort Wayne, a municipal corporation organized and existing under the laws of the State of Indiana.

"Lessee" means the Lease Agreement, dated_____, 1981, by and between the Developer, as Lessor, and D.O. McComb & Sons, Inc., as Lessee.

"Loan" means the loan by Issuer to Developers of the proceeds from the sale of the Series 1981 Bonds.

"Net Proceeds", when used with respect to any insurance proceeds or any condemnation award, means the amount remaining after deducting all expenses (including attorneys' fees) incurred in the collection of such proceeds or award from the gross proceeds thereof.

"Note or Notes" means the Series 1981 Note or Notes and the Additional Note or Notes of the Developers, if any, referred to in Section 4.1 hereof.

"Permitted Encumbrances" means as of any particular time, (i) liens for ad valorem taxes and special assessments not then delinquent, (ii) this Agreement, those encumbrances permitted to exist under Section 4.9 of this Agreement and the Indenture, (iii) utility or water tower and associated facilities, access and other easements and rights-of-way, restrictions and exceptions that will not materially interfere with or impair the operations being conducted in the Building (or, if no operations are being conducted therein, the operations for which the Building was designed or last modified) or elsewhere on the Project Site, (iv) such minor defects, irregularities, encumbrances, easements, rights-of-way and clouds on title as normally exist with respect to properties similar in character to the Project and as do not in the aggregate materially impair the property affected thereby for the purpose for which it was acquired or is held by the Developers, (v) mechanic's and materialmen's liens which are not filed or perfected in the manner prescribed by law, as in effect on the date hereof or otherwise, (vi) mechanic's and materialmen's liens filed or perfected in he manner prescribed by law which liens are presently the subject of good faith challenge by the Developers, except as provided in Section 4.8 hereof, and (vii) the Lease.

"Prime Rate" means the interest rate charged by Anthony Wayne Bank of Fort Wayne, Indiana to its best commercial customers.

"Project" means the Project Site and Building to be acquired and constructed in the City of Fort Wayne, Indiana, and consisting of those economic development facilities described in Exhibit A hereto.

"Project Site" means the real estate, as described in the Project description, in the City of Fort Wayne, Indiana, on which the Project is located.

"Series 1981 Bonds" means the $600,000 aggregate principal amount of Bonds authorized to be issued by the Issuer pursuant to the terms and conditions of Section 2.06 of the Indenture.

"Series 1981 Note or Notes" means the Series 1981 Note or Notes which shall be executed and delivered by the Developers to the Trustee in the form attached hereto as Exhibit B concurrently with the issuance of the Series 1981 Bonds.

"Trustee" means the Trustee for the Bonds at the time serving as such under the Indenture.

(End of Article I)

Section 2.1. [illegible] and warrants that:

(a) Issuer is a [illegible] and an instrumentality of the State of Indiana. Under the provisions of the Act, Issuer is authorized to enter into the transactions contemplated by this Agreement and to carry out its obligations hereunder. Issuer has been duly authorized to execute and deliver this Agreement. Issuer agrees that it will [illegible] all such acts necessary to preserve and keep in full force and effect its existence.

(b) Issuer agrees to provide funds from the proceeds of the Series 1981 Bonds for the acquiring, constructing, installing and equipping of the Project, as [illegible] necessary, subject to the consideration of the Series 1981 Notes or Notes and the Developers directly granting a [illegible] on the Project Site and Building to the Trustee, all for the benefit of the Bondholders, to the end that industry and the economy [illegible] promoted, and [illegible] in this Agreement and the Series 1981 Note or Notes to the Trustee.

(c) The Issuer represents that the Series 1981 Note or Notes will be issued to the Lender pursuant to the Indenture, and that no further assignment is [illegible] by the Issuer, since the Issuer is [illegible] the Series 1981 Note or Notes have not been registered [illegible] Securities Act of 1933.

Section 2.2. [illegible] and warrants that:

(a) Developers have [illegible] that they [illegible] in violation of any law in any manner adverse to their ability to perform their obligations under this Agreement. [illegible] Section 1981 Note or Notes, [illegible] to enter into this Agreement and the Series 1981 Note or Notes and have [illegible] and [illegible] Agreement and the Series 1981 Note or Notes.

(b) [illegible]

proceeds to [illegible] has encourag[illegible] of Fort Wayne, Indiana, and will [illegible] economic develop[illegible] and create a [illegible] in the area.

(c) Developers [illegible] to it by the Issuer, to enter into the Indenture with the Trustee in order to mortgage the Project Site and Building thereon of the Project, all for the benefit of the Bond-holders.

(d) Subs[illegible] ly all [illegible] of the proceeds from the Series 1981 Bonds will be used for the acquisition, construction and improvement of land, buildings or machinery and equipment for the Project. No part of the proceeds are to be used by the Developers, directly or indirectly, as working capital or to finance inventory.

(e) The Project constitutes and will constitute either land or property of a character subject to the allowance for depreciation under Section 167 of the Internal Revenue Code of 1954, as amended.

(f) The [illegible] vided by the [illegible] or omit to [illegible] of interest on the [illegible] 1981 [illegible] taxation.

(g) The [illegible] Project [illegible] until the [illegible] ment as provid[illegible] herein.

(h) The [illegible] by the Act.

(i) Neither [illegible] ment, the consummation [illegible] hereby including execution and delivery of the Series 1981 Note or Notes, and [illegible] compliance with the terms and [illegible] conflicts with [illegible] tions or provisions of any [illegible] of any

agreement [illegible]
or by which [illegible]
any of the [illegible] tion
of any lien, [illegible]
of the property or [illegible] of any instrument or agreement.

(j) The Project, or any [illegible] thereof, has not been acquired or constructed by the Developer prior to the adoption of the Resolution of the Legislative Body of the City of Fort Wayne on , 1981, with respect to the Project.

(End of Article II)

COMMENCEMENT AND COMPLETION OF THE PROJECT; ISSUANCE OF THE BONDS

Section 3.1. Agreement to Acquire and/or Construct the Project. Developers agree that:

(a) They will make, execute, acknowledge and deliver any contracts, orders, receipts, writings and instructions with any other persons, firms or corporations and in general do all things which may be requisite or proper, all for acquiring, constructing, installing and completing the Project, to the extent permitted by law.

(b) They will cause the Project to be acquired and/or constructed as herein provided on the Project Site.

Developers agree to acquire, construct, install and equip the Project with all reasonable dispatch; and to use its best efforts to cause acquisition, construction, installation and equipping to be completed by , 1981, or as soon thereafter as may be practicable, delays incident to Force Majeure only excepted; but if for any reason such acquisition, construction, installation and equipping is not completed by said date, there shall be no resulting liability on the part of Developers and no diminution in or postponement of the payments required to be paid by Developers under this Agreement or the Series 1979 Note or Notes.

Section 3.2. Ownership and Use of Project. Issuer and Developers agree that title to and ownership of the Project shall remain in and be the sole property of Developers in which Issuer shall have no interest, but the Developers shall mortgage and pledge the same to the Trustee on behalf of the holders of the bonds to secure the payment of the Issuer's obligations thereunder.

Section 3.3. Agreement to Issue Series 1981 Bonds; Application of Bond Proceeds. In order to provide funds to make the loan, Issuer will issue, sell and deliver to the initial purchasers thereof the Series 1981 Bonds and deposit the proceeds thereof with Trustee as follows:

(i) in the Bond Fund a sum equal to the accrued interest, if any, to be paid by the purchasers of the Series 1979 Bonds, and

(ii) in the Construction Fund the balance of the proceeds to be received from said sale.

Section 3.4. Payments from the Construction Fund. Issuer has, in the Indenture, authorized and directed Trustee to make payments from the Construction Fund to pay the Costs of Construction, or to reimburse Developers for any Costs of Construction paid by them. Such payments shall be made upon receipt of a requisition signed by Developers stating with respect to each payment to be made: (1) the requisition number, (2) the name and address of the person, firm or corporation to whom payment is due, (3) the amount to be paid, and (4) that each obligation mentioned therein has been properly incurred, is a proper charge against the Construction Fund, is unpaid therefrom, and has not been the basis of any previous withdrawal. At the time of each payment, evidence of the title shall be continued down to such time for possible liens or objections intervening between the date of the delivery of the Bonds and the date of such payment.

Section 3.5. Furnishing Documents to Trustee. Developers agree to direct such requisitions to Trustee as may be necessary to effect payments out of the Construction Fund in accordance with Section 3.4 hereof.

Section 3.6. Establishment of Completion Date. The Completion Date shall be evidenced to Trustee and Issuer by a certificate signed by Developers stating that, except for amounts retained by Trustee at Developers' direction for any Costs of Construction not then due and payable or being contested in good faith, (i) construction and/or acquisition of the Project has been completed and any and all labor, services, materials and supplies used in such construction have been paid for, (ii) all other facilities necessary in connection with the Project have been constructed, acquired and installed and all costs and expenses incurred in connection therewith have been paid. Notwithstanding the foregoing, such certificate shall state that it is given without prejudice to any rights against third parties which exist at the date of such certificate or which may subsequently come into being. Upon receipt of such certificate, Trustee shall in accordance with Section 5.08 of the Indenture transfer all moneys then in the Construction Fund to a special escrow account within the Bond Fund, except any amount retained as aforesaid by Trustee for any Costs of Construction, provided that at least 90% of the amount actually expended has been expended on land or property of a character subject to the allowance for depreciation under Section 167 of the Internal Revenue Code of 1954, as amended. Trustee, as directed by Developers, shall use any amount transferred to the Bond Fund from the original Loan (together with interest thereon, limited as provided in the Internal Revenue Service Reve. Proc. 79-5 at 26 CFR 601.201 and any subsequent amendments, modifications or replacements thereof) to redeem Series 1979 Bonds at the earliest redemption date. Developers shall make available to Trustee and Issuer on their written request a copy of the detail drawings for the Project as completed.

Section 3.7. [illegible] and [illegible] sufficient. [illegible] available for payment of the [illegible] sufficient to pay the Costs of Construction [illegible] to complete the Project and to pay the [illegible] of the Costs of Construction in excess of the moneys available therefrom in the Construction Fund. Issuer does not make any warranty, either express or implied, that the moneys paid into the Construction Fund and available for payment of the Costs of Construction will be sufficient to pay all of the Costs of Construction. Developers agree that if after exhaustion of moneys in the Construction Fund Developers should pay any portion of the Costs of Construction pursuant to the provisions of this Section, they shall not be entitled to any reimbursement therefor from Issuer or from Trustee or from the holders of any of the Bonds, nor shall it be entitled to any diminution of the amounts payable under Section 4.1 hereof or under the Series 1981 Note or Notes.

Section 3.8. Investment of Construction Fund and Bond Fund Moneys. Any moneys held as a part of the Construction Fund and the Bond Fund shall be invested or reinvested by Trustee, at the request of and as directed by Developers, in (i) obligations issued or guaranteed by the United States of America; (ii) obligations issued or guaranteed by any person controlled or supervised by and acting as an instrumentality of the United States of America pursuant to authority granted by the Congress of the United States; (iii) negotiable or non-negotiable certificates of deposit and time deposits issued by any bank, trust company or national banking association (including trustee bank); (iv) uncollateralized promissory notes of industrial, utility or financing corporations issued directly or through a dealer; (v) bankers acceptances; (vi) commercial discount notes and certain notes backed by irrevocable letters of credit; (vii) repurchase agreements fully secured by obligations of the type specified in (i) through (vi) above; and (viii) any other investments to the extent then permitted by law. Trustee may make any and all such investments through its own bond department.

Section 3.9. Covenants With Respect to Arbitrage. Developers hereby certify and represent to Issuer that it is not expected that the proceeds of the Series 1981 Bonds will be used in a manner that would cause the Bonds to be arbitrage bonds under Section 103(c) of the Internal Revenue Code of 1954, as amended, and the proposed regulations promulgated under that Section. To the best knowledge and belief of Developers, there are no facts or circumstances which would materially change the foregoing.

Developers and Issuer, in reliance on Developers' covenants herein, covenant and certify to each other and to and for the benefit of the purchasers of the Series 1981 Bonds that no use will

[illegible] made of the proceeds [illegible] Series 1981 Bonds which, if such use had been [illegible] ly [illegible] the date of issue of the Series 1979 Bonds, would have caused the Series 1981 Bonds to be classified as arbitrage bond, within the meaning of Section 103(c)(2) of the Internal Revenue Code of 1954, as amended. Pursuant to such covenant, Issuer and Developers each obligate itself throughout the term of the issue of the Series 1981 Bonds not to violate the requirements of Section 103(c) of the Internal Revenue Code of 1954, as amended, and any regulations promulgated thereunder.

As used in this Section, all words and terms shall have the same meanings as such words are given for the purposes of such Section 103(c) and the applicable regulations promulgated by the Department of the Treasury thereunder.

(End of Article III)

ARTICLE IV

PROVISIONS FOR PAYMENT

Section 4.1. Loan Payments and Other Amounts Payable; Notes; and Credits. Concurrently with the sale and delivery by Issuer of its Series 1981 Bonds, Developers shall execute and deliver to Trustee the Series 1981 Note or Notes substantially in the form attached hereto as Exhibit B, pursuant to which Developers will make payments sufficient to pay when due (whether at maturity, by acceleration or otherwise) the principal of, premium, if any, and interest on the Bonds.

Developers also agree to pay on or before _____, 19__, and each _____ thereafter of each year during the Agreement Term, an amount equal to the reasonable and necessary fees and expenses of Trustee and any paying agent not theretofore provided for and any reasonable and necessary fees and expenses of Issuer and the Commission caused by any default of Developers pursuant to Article VIII of this Agreement or the Note or Notes.

In the event Developers should fail to make any of the payments required in this Section or in the Note or Notes, the item or installment so in default shall continue as an obligation of Developers until the amount in default shall have been fully paid.

Developers also agree that they shall make the payments provided in this Agreement and the Note or Notes regardless of whether or not the Project is used or useful, or whether any applicable laws, regulations or standards prevent or prohibit the use of the Project.

The amount of any money in the Bond Fund which is either proceeds from the sale of any series of Bonds or earnings on investments made pursuant to the provisions of the Indenture which has been set aside, by the Trustee at the request of the Developers, for payments of principal, whether at maturity or upon redemption, of Bonds of such series shall be credited against the obligation of the Developers to pay the principal of the Note or Notes of such series.

The amount of any money in the Bond Fund which is either proceeds from the sale of any series of Bonds or earnings on investments made pursuant to the provisions of the Indenture which has been set aside, by the Trustee at the request of the Developers, for payments of interest on the Bonds of such series

shall be credited against the [illegible] of the Developers to pay interest on the Note or Notes [illegible].

The principal amount of any Series 1981 Bond, [illegible], in the case of coupon Bonds, with all appurtenant unmatured coupons, purchased by the Developers and delivered to the Trustee, or purchased by the Trustee and cancelled, or redeemed pursuant to Sections 2.2(b), 3.6, 4.10, and [illegible] hereof, shall be credited against the obligation of the Developers to pay the principal of the Series 1981 Note or Notes.

Section 4.2. Payments Pledged. It is understood and agreed that all payments made by Developers pursuant to Section 4.1 hereof and the Series 1981 Note or Notes are pledged to Trustee pursuant to the Granting Clauses of the Indenture. Developers assent to such pledge, and hereby agree that, as to Trustee, their obligation to make such payments shall be absolute and shall not be subject to any defense or any right of set-off, counterclaim or recoupment arising out of any breach by Issuer of any obligation to Developers, whether hereunder or otherwise, or out of any indebtedness or liability at any time owing to Developers by Issuer. Issuer hereby directs Developers and Developers hereby agree to pay to Trustee at its principal office all said amounts payable by Developers pursuant to Section 4.1 hereof and the Series 1979 Note or Notes.

Section 4.3. Obligations of Developers Unconditional. The obligation of Developers to make the payments pursuant to this Agreement and the Note or Notes and to perform and observe the other agreements on its part contained herein and therein shall be absolute and unconditional. Until such time as the principal of, premium, if any, and interest on the Bonds shall have been made in accordance with the Indenture, Developers (i) will not suspend or discontinue any payments pursuant to this Agreement or the Note or Notes, (ii) will perform and observe all [illegible] other agreements contained in this Agreement and the Note or Notes and (iii) except as provided in Article IX hereof, will not terminate this Agreement or the Note or Notes for any cause including, without limiting the generality of the foregoing, failure to complete the Project, failure of title to the Project or any part thereof, any acts or circumstances that may constitute failure of consideration, destruction of or damage to the Project, commercial frustration of purpose, any change in the tax or other laws of the United States of America or of the State of Indiana or any political subdivision thereof. Developers may, at their own cost and expense, prosecute or defend any action or proceeding or take any other action

involving third persons which Developers deem [illegible] reasonably necessary in order to insure the construction, equipping and completion of the Project or to secure or protect the right of ownership, possession, occupancy and use hereunder, and in such event Lessee hereby agrees to cooperate fully with Developers.

Section 4.4. No Abatement of Lease Payments. It is understood and agreed that Developers shall be obligated to continue to pay the amounts specified herein and in the Note or Notes whether or not the Project is damaged, destroyed or taken in condemnation and that there shall be no abatement of any such payments and other charges by reason thereof.

Section 4.5. Insurance Required. Developers agree to insure the Project until all of the Bonds are paid (or provision made for payment thereof in accordance with the provisions of the Indenture) in such amounts as similar properties are usually insured for by companies similarly situated, against loss or damage of the kinds usually insured against by companies similarly situated, including but not limited to insurance against loss or damage by fire and lightning with extended coverage endorsements, public liability coverage, workmens' compensation coverage, boiler explosion insurance on steam boilers, pressure vessels and pressure piping (but only if steam boilers, pressure vessels and pressure piping have been installed in the Project) either by means of policies issued by reputable insurance companies duly qualified to do such business in the State of Indiana, or under a blanket insurance policy or policies which cover not only such property but other properties, and to provide insurance certificates to the Trustee at the commencement of each coverage period.

Section 4.6. Additional Provisions Respecting Insurance. The Net Proceeds of the insurance required in Section 4.5 hereof shall be applied as provided in Section 5.2 hereof. Each insurance policy provided for in Section 4.5 hereof (i) shall contain a provision to the effect that until all of the Bonds are paid (or provision made for the payment thereof in accordance with the provisions of the Indenture) the insurance company shall not cancel the policy or modify it materially and adversely to the interest of Developers or Trustee without first giving written notice thereof to Developers and Trustee at least ten days in advance of such cancellation.

Section 4.7. [illegible] maintain the full insurance [illegible], Trustee may (but shall be under no [illegible] to do so) [illegible] required policies of insurance and pay the premiums on the same; and all amounts so advanced thereon by Lender or Trustee shall become an additional obligation of Developers to the one making the advancement, which amounts, together with interest thereon at the rate of 12 percent per annum or the maximum rate permitted by law, whichever is lesser, Developers agree to pay.

Section 4.8. Payment for Maintenance and Modifications of Project. Developers agree that during the Agreement Term, they will, at their own expense (i) keep the Project in as reasonably safe condition as its operations shall permit, and (ii) keep the Building and all other improvements forming a part of the Project in good repair and in good operating condition, making from time to time all necessary repairs thereto (including external and structural repairs) and renewals and replacements thereof.

Developers may, also at their own expense, make from time to time any additions, modifications or improvements to the Project it may deem desirable for its business purposes that do not adversely affect the structural integrity of the Building or substantially reduce its value provided that all such additions, modifications and improvements to the Building shall be located wholly within the boundary lines of the Project Site.

All such additions, modifications and improvements made by Developers shall become a part of the Project; provided, that any personal property, machinery, equipment or furniture installed by Developers for use in connection with the operation of the Project without expense to Lender which does not constitute a part of the Project and is not essential to the operation of the Project, may be removed by Developers at any time and from time to time; and provided further, that any damage to the Project occasioned by such removal shall be repaired by Developers at their own expense.

Developers will not permit any mechanics' lien, security interest or other encumbrance to remain against the Project for labor or materials furnished in connection with any additions, modifications, improvements, repairs, renewals or replacements so made by it; provided, that if Company shall first notify the Trustee of its intention so to do, Developers may in good faith contest any mechanics' or other liens filed or established against the Project, and in such event may permit the items so contested to remain undischarged and unsatisfied during the period of such contest and any appeal therefrom, unless the Lender or the Trustee shall notify Developers that by non-payment of any such items the lien of the Indenture as to any part of the Project will be

[illegible]erially endangered or the Project or any part thereof [illegible] will be subject to loss or forfeiture, in which event Developers shall promptly pay and cause to be satisfied and discharged all such unpaid items.

Section 4.9. Taxes, Other Governmental Charges and Utility Charges. Developers will promptly pay, as the same become due, all taxes and governmental charges of any kind whatsoever that may at any time be lawfully assessed or levied against or with respect to the Project or any interest therein or any machinery, equipment or other property installed or brought by Developers therein or thereon (including, without limiting the generality of the foregoing, any taxes levied upon or with respect to the revenues, income or profits of Developers from the Project which, if not paid, will become a lien on the Project prior to or on a parity with the lien of the Indenture or a charge on the revenues and receipts therefrom prior to or on a parity with the charge thereon and the pledge or assignment thereof to be created and made in the Indenture), and including all ad valorem taxes lawfully assessed upon the land described in Exhibit A attached hereto and made part hereof, all utility and other charges incurred in the operation, maintenance, use, occupancy and upkeep of the Project and assessments and charges lawfully made by any governmental body for public improvements that may be secured by lien on the Project or on the land described in Exhibit A attached hereto and made a part hereof; provided, that with respect to special assessments or other governmental charges that may lawfully be paid in installments over a period of years, Developers shall be obligated to pay only such installments as are required to be paid during the Agreement Term.

Developers may, at their expense and in their own name and behalf, in good faith, contest any such taxes, assessments and other charges, and, in the event of any such contest, may permit the taxes, assessments or other charges so contested to remain unpaid during the period of such contest and any appeal therefrom, provided during such period enforcement of any such contested item shall be effectively stayed.

In the event that Developers shall fail to pay any of the foregoing items required by this Section to be paid by Developers, the Issuer or the Trustee may (but shall be under no obligation to) pay the same and any amounts so advanced therefor by the Issuer or the Trustee shall become an additional obligation of Developers to the one making the advancement, which amounts, together with interest thereon at the rate of twelve percent (12%) per annum from the date thereof or the maximum rate permitted by law, whichever is less, Developers agree to pay.

Section 4.1[illegible]. Payment for Release of Portion of Project Site. The Developers shall have, and is hereby granted, the right to pursue the release from the lien of the Indenture any unimproved part of the Project Site (on which neither the Building nor Project Equipment is located but upon which transportation, parking or utility facilities may be located) at any time and from time to time upon payment to the Bond Fund of an amount equal to the purchase price paid for that portion of the land to be released, provided that it furnishes the Issuer and Trustee with the following:

(a) A notice in writing containing (i) an adequate legal description of that portion of the Project Site with respect to which such option is to be exercised, (ii) a statement that the Developers intend to exercise their right to the release of such portion of the Project Site on a date stated, which shall not be less than forty-five (45) nor more than ninety (90) days from the date of such notice.

(b) A certificate of an Independent Engineer who is acceptable to the Trustee, dated not more than ninety (90) days prior to the date of the purchase and stating that, in the opinion of the person signing such certificate (i) the portion of the Project Site with respect to which the right is exercised is not needed for the operation of the Project for the purpose hereinabove stated, and (ii) the release will not impair the usefulness of the Project as an economic development facility and will not destroy the means of ingress thereto and/or egress therefrom.

(c) A current appraisal from an independent, accredited commercial real estate appraiser indicating that the market value of the project site after the proposed release will be not less than 125 per cent of the amount of incumbrance remaining after the release and payment of release proceeds.

The Trustee shall deposit such amount in the Bond Fund to redeem Bonds at the earliest possible date at the price set forth in Section 3,01 of the Indenture and will release from the lien of the Indenture such portion of the Project Site with respect to which the Developers shall have exercised the right granted to them in this Section.

In the event the Developers shall exercise the right granted to them under this Section, the Developers shall not be entitled to any abatement or diminution of the payments under Section 4.1 hereof except as otherwise provided in Section 4.1 hereof, and if such option relates to Project Site on which transportion, parking or utility facilities are located, the Developers shall retain an easement to use such transportation or utility facilities to the extent necessary for the efficient operation of the Project.

(End of Article IV)

DAMAGE, RESTRICTION [illegible]
USE OF NET PROCEEDS

Section 5.1. Damage, Destruction and Condemnation. Unless Developers exercise their option to prepay the Loan pursuant to the provisions of Section 9.2(a) or (b) hereof, it prior to full payment of the Bonds (or provision for payment thereof in accordance with the provisions of the Indenture) (i) any portion of the Project is damaged or destroyed, but it is practicable to rebuild, repair or restore the same, or (ii) title to, or the temporary use of, any portion of the Project or any estate of Developers in the Project or any part thereof shall be taken under the exercise of the power of eminent domain by any governmental body or by any person, firm or corporation acting under governmental authority but the Project is still satisfactory to Developers for their intended use, Developers shall be obligated to continue to pay the amounts specified herein and in the Note or Notes.

Section 5.2. Application of Net Proceeds. Except for any portion of the Net Proceeds from policies of insurance paid to Developers pursuant to policy provisions or endorsements permitted under Section 4.6 hereof, unless Developers exercise their option to prepay the Loan pursuant to the provisions of Section 9.2(a) or (b) hereof, Trustee and Developers will cause the Net Proceeds of any insurance proceeds or condemnation award resulting from any event described in Section 5.1 hereof to be deposited in a separate trust account, and shall be applied in one or more of the following ways as shall be elected by Developers in a written notice to Trustee:

(a) The prompt repair, restoration, relocation, modification or improvement of the Project by Developers to substantially the same condition as existed prior to the event causing such damage or destruction or the exercise of such power of eminent domain; and Issuer has, in the Indenture, authorized and directed Trustee to make payments from such separate trust account for such purposes or to reimburse Developers for costs paid by them in connection therewith upon receipt of a requisition acceptable to Trustee signed by a Developer stating with respect to each payment to be made: (1) the requisition number, (2) the name and address of the person, firm or corporation to whom payment is due, (3) the amount to be paid, and (4) that each obligation mentioned therein has been properly incurred, is a proper charge against such trust account, is unpaid, and has not been the basis of any previous withdrawal. Any moneys held by the Trustee in

the separate fund [illegible] graph shall at the wi[illegible] or reinvested by the Tr[illegible] Section 3.8 hereof. The developers shall [illegible] the amount of any net losses with respect to principal on such investments. Any balance of the Net Proceeds remaining after such work has been completed shall be transferred to the Bond Fund to redeem Bonds at the earliest possible date at the prices set forth in Section 3.01 of the Indenture, or if the Bonds have been fully paid (or provisions for payment thereof have been made in accordance with the provisions of the Indenture), any balance remaining in the Bond Fund shall be paid to Developers.

(b) The Net Proceeds may be paid into the Bond Fund and applied to redeem any portion of the Bonds then outstanding at the earliest possible date at the prices set forth in Section 3.01 of the Indenture, if, Developers shall furnish to Issuer and Trustee a certificate acceptable to Issuer and Trustee stating that the property forming a part of the Project that was damaged or destroyed by such casualty or was taken by such condemnation proceedings is not essential to Developers' use or possession of the Project.

Section 5.3. Insufficiency of Net Proceeds. If the Net Proceeds are insufficient to pay in full the cost of any repair, restoratio relocation, modification or improvement referred to in Section 5.2(a) hereof, Developers will nonetheless complete the work and will pay any cost in excess of the amount of the Net Proceeds held by the Trustee.

(End of Article V)

ARTICLE VI

SPECIAL COVENANTS

Section 6.1. No Warranty of Condition or Suitability by Issuer. Issuer makes no warranty, either express or implied, as to the Project or that it will be suitable for Developer's purposes or needs.

Section 6.2. Right of Access to the Project. Developer agrees that the Issuer, the Trustee and their or either of their duly authorized agents shall have the right at all reasonable times during business hours, subject to Developer's safety and security requirements, to enter upon the Project Site and to examine and inspect the Project without intereference or prejudice to the Developer's operation.

Developer further agrees that the Issuer and its duly authoized agents shall have such rights of access to the Project as may be reasonably necessary to cause to be completed the construction and installation provided for in Section 3.1 hereof, and thereafter for the proper maintenance of the Project, in the event of failure by Developer to perform his obligations under Section 4.8 hereof.

Section 6.3. Granting of Easements. If no event of default shall have happened and be continuing, the Developer may at any time or times grant easements, licenses, rights-of-way (including the dedication of public highways) and other rights or privileges in the nature of easements with respect to any property subject to the lien of the Indenture, free from the lien of the Indenture, or Developer may release existing easements, licenses, rights-of-way and other rights or privileges with or without consideration, and the Issuer agrees that it shall execute and deliver and will cause and direct the Trustee to execute and deliver any instrument necessary or appropriate to confirm and grant or release any such easement, license, right-of-way or other right or privilege upon receipt of: (i) a copy of the instrument of grant or release, (ii) a written application signed by Developer requesting such instrument, and (iii) a certificate executed by Developer stating (1) that such grant or release is not detrimental to the proper conduct of the business of Developer, and (2) that such grant or release will not impair the effective use or interfere with the operation of the Project and will not materially weaken, diminish or impair the security intended to be given by or under the Indenture.

Section 6.4. Release and Indemnification Covenants. Developer releases the Issuer from the covenant and agrees that the Issuer shall not be liable for, and convenant and agree to indemnify and hold the Issuer harmless against, any loss or damage to property or any injury to or death of any person occurring on or about or resulting from any defect in

the Project or any other improvements or installations on the Project Site; provided, that the indemnity provided in this sentance shall be effective only to the extent of any loss that may be sustained by the Issuer in excess of the Net Proceeds received from any insurance carried with respect to the loss sustained, and provided further, that the indemnity shall not be effective for damages that result from sole negligence or intentional acts on the part of the Issuer. To this end, Developer will provide for and insure, in the public liability policies required in Section 4.5 hereof, not only his own liability in respect of the matters there mentioned but also the liability herein assumed.

Section 6.5 Tax Exempt Status of Bonds. Developer further covenants that he will not take, or fail to take, any action which will cause the interest on the Bonds to become subject to federal income taxes pursuant to the provisions of Section 103(b) of the Internal Revenue Code so long as any of the Bonds are outstanding under the Indenture; provided, that Developer shall not have violated this covenant if the interest on any of the Bonds becomes taxable to a person who is a substantial user of the Project or a related person pursuant to the provisions of Section 103(b)(8) of the Internal Revenue Code. In the event that the Bonds are issued pursuant to the $10,000,000 election under Section 103(b) of the Internal Revenue Code, Developer shall cooperate with Issuer in filing the election prior to issuance of the Bonds and shall accurately set forth therein all of its Section 103(b)(6)(D) capital expenditures for the three-year period prior to issuance of the Bonds. Thereafter, Developer shall report all additional Section 103(b)(6)(D) capital expenditures to the Internal Revenue Service at the time it files its annual tax returns for the three-year period following the issuance of the Bonds.

Section 6.6 Further Assurances and Corrective Instruments. To the extent permitted by law, Issuer and Developer agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for carrying out the intention of or facilitating the performance of this Agreement or the Note or Notes.

(End of Article VI)

ASSIGNMENT, REDEMPTION, MORTGAGING AND SELLING

Section 7.1. Assignment. This Agreement and the Note or Notes may be assigned by Developers without the necessity of obtaining the consent of either Issuer or Trustee, subject, however, to each of the following conditions:

(a) No assignment (other than pursuant to Section 6.2 hereof) shall relieve Developers from primary liability for any of its obligations hereunder or under the Note or Notes, and in the event of any such assignment, Developers shall continue to remain primarily liable for payments of the amounts specified in the Note or Notes and in Section 4.1 hereof and for performance and observance of the other agreements on its part herein and in the Note or Notes provided to be performed and observed by it to the same extent as though no assignment had been made.

(b) The assignee shall assume the obligations of Developers hereunder and under the Note or Notes to the extent of the interest assigned.

(c) Developers shall, within thirty days after the delivery thereof, furnish or cause to be furnished to Issuer and to Trustee a true and complete copy of each assignment and assumption of obligation, as the case may be.

Section 7.2 Assignment and Pledge of Interest in this Agreement by Issuer. Any assignment or pledge by Issuer to Trustee pursuant to the Indenture of any interest in this Agreement or the Note or Notes, or any moneys receivable under this Agreement or the Note or Notes shall be subject and subordinate to this Agreement and the Note or Notes.

Section 7.3. Redemption of Bonds. Upon the agreement of Developers to deposit moneys in the Bond Fund in an amount sufficient to redeem Bonds subject to redemption, Trustee at the request of Developers, shall forthwith take all steps (other than the payment of the money required for such redemption) necessary under the applicable redemption provisions of the Indenture to effect redemption of all or part of the then outstanding Bonds, as may be specified by Developers, on the earliest redemption date on which such redemption may be made under such applicable provisions.

Section 7.4. References to Bonds Ineffective After Bonds Paid. Upon payment in full of the Bonds (or provision for payment thereof

having been made in accordance with the provisions of the Indenture) and payment of all fees and charges of Trustee, all references in this Agreement to the Bonds and Trustee shall be ineffective and neither Trustee nor the holders of any of the Bonds shall thereafter have any rights hereunder, saving and excepting those that shall have theretofore vested.

Section 4.5. Mortgaging and Leasing of Project. Developers shall mortgage the Project, and the Issuer shall assign its interest in and pledge any moneys receivable under this Agreement, to the Trustee pursuant to the Indenture as security for payment of the principal of, premium, if any, and interest on the Bonds, but each such mortgage, assignment or pledge shall be subject and subordinate to this Agreement.

The Developers shall lease portions of the Project to the Classic Company, Inc., pursuant to the Lease, and shall assign any and all rents or other sums payable pursuant to said lease to Trustee hereunder.

Section 7.6. Restrictions on Sale of Project. Developers agree that, except as set forth in Section 7.5 hereof or other provisions of this Agreement or the Indenture, they will not sell, convey, mortgage, encumber or otherwise dispose of any part of the Project during the Agreement Term.

(End of Article VII)

ARTICLE VIII

EVENTS OF DEFAULT AND REMEDIES

Section 8.1. Events of Default Defined. The following shall be "events of default" under this Agreement and the Note or Notes and the terms "event of default" and "default" shall mean, whenever they are used in this Agreement and the Note or Notes, any one or more of the following events:

(a) Failure by Developers to make the payments required under the Note or Notes at the time specified therein and the continuation of said failure for a period of one day.

(b) Failure by Developers to observe and perform any covenant, condition or agreement in this Agreement or obligation to prepay the Note or Notes on its part to be observed or performed, other than as referred to in Section 8.1(a), for a period of thirty days after written notice, specifying such failure and requesting that it be remedied, given to Developers by Issuer or Trustee, unless Issuer and Trustee shall agree in writing to an extension of such time prior to its expiration; provided, however, if the failure stated in the notice cannot be corrected within the applicable period, Issuer and Trustee will not unreasonably withhold their consent to an extension of such time if corrective action is instituted by Developers within the applicable period and diligently pursued until the default is corrected.

(c) The filing by Developers of a voluntary petition in bankruptcy, or failure by Developers promptly to lift any execution, garnishment or attachment of such consequence as will impair its ability to carry on its operations at the Project, or adjudication of Developers as bankrupts, or assignment by Developers for the benefit of their creditors, or the entry by Developers into an agreement of composition with their creditors, or the approval by a court of competent jurisdiction of a petition applicable to Developers in any proceeding instituted under the provisions of the federal bankruptcy statute, as amended, or under any similar act which may hereafter be enacted.

The foregoing provisions of this Section are subject to the following limitations: If by reason of Force Majeure Developers are unable in whole or in part to carry out their agreement on their

part herein [illegible] Developers to [illegible] pursuant to Article IV hereof or the Note or Notes, Developers shall not be deemed in default during the continuance of such inability. Developers agree, however, to remedy with all reasonable dispatch the cause or causes preventing Developers from carrying out their agreement; provided, that the settlement of strikes, lockouts and other industrial disturbances shall be entirely within the discretion of Developers, and Developers shall not be required to make settlement of strikes, lockouts and other industrial disturbances by acceding to the demands of the opposing party or parties when such course is in the judgment of Developers unfavorable to Developers.

Section 8.2. Remedies on Default. Whenever any event of default referred to in Section 8.1 hereof shall have happened and be continuing, Trustee may take any one or more of the following remedial steps:

(a) By written notice to Developers, Trustee may declare the Note or Notes and all amounts payable thereunder, in a sum equal to all amounts then due and payable on the Bonds whether by acceleration of maturity or otherwise, to be immediately due and payable as liquidated damages, whereupon the same shall become immediately due and payable.

(b) Trustee may take whatever action at law or in equity may appear necessary or desirable to collect the amounts then due and thereafter to become due, or to enforce performance and observance of any obligation, agreement or covenant of Developers under this Agreement and the Note or Notes.

Any amounts collected pursuant to action taken under this Section 8.2 shall be paid into the Bond Fund and applied in accordance with the provisions of the Indenture or, if the Bonds have been fully paid (or provision for payment thereof has been made in accordance with the provisions of the Indenture), to Developers.

Section 8.3. No Remedy Exclusive. No remedy herein conferred upon or reserved to Issuer or Trustee is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or the Note or Notes or now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised

from time to [illegible] ment. In order to entitle [illegible] to receive any remedy reserved to it in this Article, it [illegible] to give any notice, other than such notice as may be required in this Article. Such rights and remedies as are given hereunder shall also extend to Trustee, and Trustee and the holders of the Bonds, subject to the provisions of the Indenture, shall be entitled to the benefit of all covenants and agreements herein contained.

Section 8.4. Agreement to Pay Attorneys' Fees and Expenses. In the event Developers should default under any of the provisions of this Agreement or the Note or Notes and Issuer should employ attorneys or incur other expenses for the collection of any payments or the enforcement of performance or observance of any obligation or agreement on the part of Developers herein or in the Note or Notes contained, Developers agree that they will on demand therefor pay to Issuer the reasonable fee of such attorneys and such other expenses so incurred by Issuer.

Section 8.5. No Additional Waiver Implied by One Waiver. In the event any agreement contained in this Agreement or in the Note or Notes should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder or thereunder.

(End of Article VIII)

PREPAYMENT OF LOAN

Section 9.1. Option to Prepay the Loan. Developers shall have and is hereby granted the option to prepay the amounts payable under this Agreement and the Series 1981 Note or Notes, including the principal of, premium, if any, and interest on the Series 1981 Note or Notes, in whole or in part, on any interest payment date, so long as Developers are not in default under this Agreement.

Section 9.2. Conditional Options and Obligation to Prepay the Loan. Developers shall have and are hereby granted the options to prepay on any interest payment date the amounts payable under this Agreement and the Note or Notes prior to the expiration of the Agreement and prior to the full payment of the Bonds (or prior to making provision for payment thereof in accordance with the Indenture) if:

(a) The Project or a substantial portion of the Project shall have been damaged or destroyed to such an extent that it is not practicable to rebuild, repair and restore the Project; or

(b) Condemnation of all or substantially all of the Project or the taking by eminent domain of such use or control of the Project or other property of Developers in connection with which the Project is used occurs so as to render the Project unsatisfactory to Developers for their intended use; or

(c) Certain economic, technological or other changes shall have occurred which render the Project obsolete for the purpose for which it was constructed; or

(d) As a result of any changes in the constitution of the State of Indiana or the Constitution of the United States of America or of legislative or administrative action (whether state or federal) or of final decree, judgment or order of any court or administrative body (whether state or federal) this Agreement shall have become void or unenforceable or impossible of performance in accordance with the intent and purpose of the parties as expressed in this Agreement; or

(e) Unreasonable burdens or excessive liabilities shall have been imposed upon Developers or Issuer with respect to the Project or the operation thereof, including without

limitation, federal, [illegible] income or other taxes not being [illegible] Agreement other than ad valorem taxes [illegible] upon privately owned property used for the same general purpose as the Project.

The Developers shall be obligated to prepay the amounts payable under this Agreement and the Series 1981 Note or Notes prior to the expiration of the Agreement and prior to full payment on the Bonds (or prior to making provision for payment thereof in accordance with the Indenture) at any time within one hundred eighty (180) days after:

(f) A determination shall have been made that interest on the Series 1981 Bonds is subject to federal income taxes; such a determination shall be deemed to have occurred upon any determination, decision or decree made by the Commissioner or any District Director of Internal Revenue Service, or by any court of competent jurisdiction that interest payable on the Series 1981 Bonds is includable in the gross income of a holder of the Series 1979 Bonds (other than a holder who is a substantial user or related person within the meaning of Section 103(b)(8) of the Internal Revenue Code of 1954, as amended, or any similar federal law then in effect).

Section 9.3. Prepayment Price. In the case of any prepayment pursuant to Section 9.1 of this Agreement, the amount payable shall be a sum sufficient, together with other funds deposited with Trustee and available for such purpose, to redeem all or part of the Series 1981 Bonds then outstanding at 100% of the unpaid principal amount thereof plus accrued interest to the date of redemption and to pay all reasonable and necessary expenses of Trustee accrued and to accrue through redemption of the Series 1981 Bonds so redeemed.

In the case of any prepayment pursuant to Sections 9.2(a), (b), (c), (d) or (e) of the Agreement, the amount payable shall be a sum sufficient, together with other funds deposited with Trustee and available for such purpose, to redeem all of the Bonds then outstanding under the Indenture at a redemption price of 100% of the unpaid principal amount thereof plus interest accrued to the date of redemption and to pay all reasonable and necessary fees and expenses of Trustee accrued and to accrue from final payment of the Bonds.

In the case of any prepayment pursuant to Section 9.2(f) of this Agreement, the amount payable shall be a sum sufficient, together with other funds deposited with Trustee and available

for such purpose, to pay the unpaid [illegible] of the Series 1981 Bonds plus a premium of 8% of the unpaid principal of the Series 1981 Bonds, such premium to be increased by 1% of the unpaid principal amount of the Series 1981 Bonds for each successive six-month period following the date 180 days after such determination to a maximum of 10% of the unpaid principal amount of the Series 1981 Bonds, and to pay all reasonable and necessary fees and expenses of Trustee accrued and to accrue through final payment of the Series 1981 Bonds.

Additionally, Developers shall pay to Trustee, for and on behalf of the Bondholders, an additional premium of 8% of the amount of the principal balance of the Bonds as such balance existed at the date of any prior bond interest payments, if any. Such determination of taxability specified in 9.2(f) hereof relates to taxability of interest payments received by bondholders in years prior to the date of determination of taxability as specified herein.

Section 9.4. Notice of Prepayment. To exercise any of the options or obligations set forth in this Article IX, Developers shall give written notice to issuer and Trustee which shall specify therein the date of closing of the prepayment, which date shall be not less than 45 days nor more than 90 days from the date the notice is mailed.

(End of Article IX)

ARTICLE X

MISCELLANEOUS

Section 10.1. Agreement Term. This Agreement shall remain in full force and effect from the date hereof to and including _____, provided, however, that this Agreement will terminate prior to said date if Developers shall prepay the amounts due under the Series 1981 Note or Notes and the Agreement pursuant to Article IX hereof.

Section 10.2. Notices. All notices, certifiicates or other communications hereunder shall be sufficiently given and shall be deemed given when delivered or mailed by registered mail, postage prepaid, addressed as follows: if to Issuer, Attention: Clerk; if to Developer, 1140 Lake Avenue, Fort Wayne, Indiana, 46805; and if to Trustee, Attention: Trust Department, 203 East Berry Street, Fort Wayne, Indiana, 46802. A duplicate copy of each notice, certificate or other communication given hereunder by either Issuer or Developer to the other shall also be given to Trustee. Issuer, Developer and Trustee may, by notice given hereunder designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent.

Section 10.3. Binding Effect. This Agreement shall inure to the benefit of and shall be binding upon Issuer, Developer and their respective successors and assigns, subject, however, to the limitations contained in Section 7.1 and 7.2 hereof.

Section 10.4. Severability. In the event any provision of this Agreement shall be held invalid or unenforceable by any court or competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 10.5. Amounts Remaining in Bond Fund. It is agreed by the parties hereto that any amounts remaining in the Bond Fund upon expiration or sooner termination of the Agreement Term, as provided in this Agreement, after payment in full of the Bonds (or provision for payment thereof having been made in accordance with the provisions of the Indenture) and the fees and expenses of Trustee in accordance with the Indenture shall belong to and be paid to Developer by Trustee as an overpayment.

Section 10.6. Amendments, Changes and Modifications. Subsequent to the issuance of Bonds and prior to their payment in full (or provision for the payment thereof having been made in accordance with the provisions of the Indenture), neither

[illegible] Agreement [illegible]
changed, modified, [illegible]
consent of Trustee, which [illegible]
withheld.

Section 10.7. Execution in Counterparts. This Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 10.8. Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Indiana.

Section 10.9. Captions. The captions or headings in this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or Sections of this Agreement.

(End of Article X)

IN WITNESS WHEREOF, Issuer and Developer have caused this Agreement to be executed in their respective names of the date first above written.

CITY OF FORT WAYNE

By: _____

(SEAL)

Attest:

_____

MARK DOUGLAS, INC.

By: _____